

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

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JEANNE HIGGS CLERK
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THE STATE OF ARIZONA

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER

Defendant.

BY: _____

No. P1300CR2008-1339

BEFORE:

THE HONORABLE WARREN R. DARROW
JUDGE PRO TEMPORE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
TUESDAY, JULY 27, 2010
8:43 A.M. to 4:26 P.M.

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

TESTIMONY OF THERESA KENNEDY

 **ORIGINAL**

KATHY JOHNSTON, RPR
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P R O C E E D I N G S

---oOo---

(Proceedings were held in the absence of the jury.)

---oOo---

THE COURT: Thank you. Please be seated.

Good morning. We are on the record in the case of State of Arizona versus Steven Carroll DeMocker.

Mr. DeMocker is present with his attorneys Mr. Sears, Mr. Hammond, and Ms. Chapman. The State is represented by Mr. Butner and Mr. Paupore. And the jury has returned.

The witness, Detective Kennedy, is back on the witness stand. And, Detective Kennedy, you understand you remain under oath; correct?

THE WITNESS: Yes.

THE COURT: Okay. Mr. Butner, you may resume your examination.

MR. BUTNER: Thank you, Judge.

D I R E C T E X A M I N A T I O N

BY MR. BUTNER:

Q. Okay. Detective Kennedy, let me show you what's been already admitted into evidence as Exhibit Number 2520. I think we were talking about that when we concluded. Okay.

1 Do you remember discovering that when you were doing your
2 tracking?

3 A. Yes.

4 Q. Okay. And what is it?

5 A. It is a photo showing two shoe prints.

6 Q. Okay. And which of the two shoe prints were you
7 tracking at the time you discovered that?

8 A. I was following the shoe print with the three Zs or
9 the three Ns on the foot, on the sole.

10 Q. And 2520 -- I'm going to give you that laser
11 pointer again if I can find it. Okay. All right. If you
12 could activate the laser pointer and show us on this map
13 where you saw 2520.

14 A. Right -- right there.

15 Q. I'm sorry, I didn't get to see it.

16 A. Right there where that green dot and the yellow
17 cross are.

18 Q. Okay. Right out here?

19 A. Yes.

20 Q. Okay. And then did you continue following the
21 three Z footprint from there?

22 A. Yes.

23 Q. Okay. And would you show us with the laser pointer
24 where you followed the three Z footprint?

25 A. The three Z footprint went out this direction,

1 which you can't see it on this map.

2 Q. Okay. And we had the other map that we were
3 looking at. It's already been admitted into evidence. I
4 believe that was 2653. I guess I better -- that's still in
5 the drawer here; right? 2653. Do we know where it's at?
6 Oh, okay, yeah.

7 And if you could show us on this map from
8 where photo 2520 was, that would be -- that would be GPS
9 markers what?

10 A. That would be my waypoint number 6 and my waypoint
11 number 30.

12 Q. Waypoint 6 and 30?

13 A. Yes.

14 Q. Okay. And six is the green dot over here?

15 A. Yes.

16 Q. And 30 is the yellow X?

17 A. Yes.

18 Q. Okay. So show us from there where you followed the
19 three Z footprints then?

20 A. Well, I think on this map, waypoint 6 and 30 are
21 somewhere in here.

22 Q. Okay.

23 A. Again, it's congested. And then I followed the Z
24 shoe print out here this direction to this point where she
25 made a turnaround. The person made a turnaround at this

1 white gate and came back on the same path this way.

2 Q. Okay. And you followed that track all the way out
3 and all the way back in?

4 A. Yes.

5 Q. And show us where you followed it to, please.

6 A. I followed it back in to where I made waypoint
7 number 1, which would have been at that gate or a crossover
8 on the edge of the property on the fence line.

9 Q. Okay. And then after completing that track of the
10 three Zs, where did you go?

11 A. I went into the residence.

12 Q. Okay.

13 A. And I -- I asked somebody to confirm what the
14 bottom of her shoes looked like, because when I set off on
15 that first track, I wasn't sure if I was actually
16 following -- or whose shoe I was following.

17 Q. Okay. And did you get confirmation?

18 A. Yes.

19 Q. All right. And then after doing that, after
20 obtaining the confirmation, then what did you do?

21 A. I went to the back side of the residence and I was
22 talking to Sergeant Huante and I told him that I had found a
23 different shoe print there at waypoint 6 and at waypoint 30.
24 And as I was speaking to him, my -- I was facing the rear of
25 the house and my back was to the barbed wire fence and I

1 looked down at the ground and I told Sergeant Huante it looks
2 just like that shoe print right there.

3 Q. Let me show you --

4 MR. SEARS: Foundation. 701, 702.

5 THE COURT: Sustained.

6 MR. SEARS: Move to strike.

7 THE COURT: Granted. The last answer is
8 stricken.

9 MR. SEARS: Thank you.

10 BY MR. BUTNER:

11 Q. Okay. So you came back to the residence and you
12 were talking with Sergeant Huante; is that correct?

13 A. Yes.

14 Q. Okay. And did you note any other footprints at the
15 residence at that time?

16 A. Yes.

17 Q. Okay. And did you actually flag those footprints?

18 A. Yes.

19 Q. Let me show you what's been marked as Exhibit
20 Number 2487.

21 THE COURT: Excuse me. 2487?

22 MR. BUTNER: Correct, Judge.

23 May I approach?

24 THE COURT: Yes.

25 MR. BUTNER: Thank you.

1 BY MR. BUTNER:

2 Q. Okay. Do you recognize what's depicted in that
3 photograph?

4 A. Yes.

5 Q. Don't testify from the photograph, but tell us what
6 is it?

7 A. It's a photograph showing three neon pink or
8 flourescent pink flags.

9 Q. What's the significance of the flags?

10 A. I placed at least two of those flags down when I
11 was backtracking that second track.

12 Q. Which two flags did you place down?

13 A. The flags nearest the fence.

14 Q. Okay. And why did you place those flags there?

15 A. Because I didn't want anybody to disturb them.

16 Q. Disturb what?

17 A. The shoe print that I saw there.

18 Q. All right. And those are the other shoe prints
19 that you noticed when you went onto the property, on the
20 Bridle Path property?

21 A. Yes.

22 MR. BUTNER: I would move for the admission of
23 Exhibit Number 2487 at this time.

24 MR. SEARS: Voir dire to clarify, your Honor?

25 THE COURT: No. Do you have a specific

1 objection? Mr. Sears, at this time, I'm not going to allow
2 voir dire. Do you have a specific objection?

3 MR. SEARS: I can't now, no, your Honor.

4 THE COURT: Then it's been offered?

5 MR. BUTNER: Yes, Judge.

6 THE COURT: Then it's admitted.

7 MR. BUTNER: Thank you.

8 BY MR. BUTNER:

9 Q. And let me show this then to the jury.

10 Okay. Would you point to the flags that you
11 placed?

12 A. This one and this one. This one looks like it fell
13 over though.

14 Q. Okay. And after noticing these other footprints,
15 did you then become -- did you then track them?

16 A. Partially, yes.

17 Q. Okay. Tell us about that, please.

18 MR. SEARS: Calls for narrative.

19 THE COURT: Sustained.

20 MR. BUTNER: I'll withdraw the question.

21 THE COURT: I -- I do need -- I need the
22 lawyers at side bar just a minute. Excuse me.

23 (Discussion off the record.)

24 THE COURT: Okay. You may continue.

25 MR. BUTNER: Thank you, Judge.

1 BY MR. BUTNER:

2 Q. Okay. This track that you found inside the
3 property at Bridle Path; right, did you come to call this
4 track two?

5 A. Yes.

6 Q. And did you then begin tracking it from there at
7 the location just inside the barbed wire fence?

8 A. Yes.

9 Q. On the map, would you show us where you tracked it
10 to?

11 A. I tracked -- now?

12 Q. Yes, please.

13 A. I tracked here out this way just a bit and then a
14 little bit this direction here.

15 Q. Okay. So those -- how many waypoints out did you
16 track it?

17 A. I don't know. I tracked it about maybe 30 feet.

18 Q. And so how many waypoints is that approximately?

19 A. I'm thinking I got to about here before I was -- I
20 stopped.

21 Q. Okay. So you went out approximately 30 feet or so
22 four waypoints or so in tracking track number two?

23 A. Yes.

24 Q. And then after tracking it that far, what did you
25 do?

1 A. I went to the Glenshandra Trailhead.

2 Q. You had been called off of that particular tracking
3 job?

4 A. Yes.

5 Q. Okay. And did you go over to the Glenshandra
6 Trailhead?

7 A. Yes.

8 Q. Okay. And then did you do some tracking over
9 there?

10 A. Yes.

11 Q. Okay. Where did you start tracking at the
12 Glenshandra Trailhead?

13 A. Just inside the metal gate.

14 Q. Okay. Would you point to it on the map for us,
15 please?

16 A. Right here.

17 Q. Where you have that blue box?

18 A. Yes.

19 Q. Is that a waypoint?

20 A. Yes.

21 Q. Do you remember what waypoint number that is?

22 A. 24.

23 Q. Waypoint 24?

24 A. Yes.

25 Q. Okay. I got to get a little drink of water here.

1 And were you tracking a footprint at that
2 point in time?

3 A. Yes.

4 Q. Let me show you what's been marked as Exhibit
5 Number 2522. And go ahead and resume the stand at this
6 point, please.

7 MR. BUTNER: May I approach, Judge?

8 THE COURT: Yes.

9 MR. BUTNER: Thank you.

10 BY MR. BUTNER:

11 Q. Do you recognize what's depicted in that particular
12 exhibit?

13 A. Yes.

14 Q. Do you know where that photograph was taken?

15 A. Yes.

16 Q. Where was it taken?

17 A. At waypoint number 24.

18 Q. Okay. And what is it that was photographed?

19 A. A shoe print.

20 MR. SEARS: Testifying from something not in
21 evidence, your Honor.

22 THE COURT: Just in general -- overruled.
23 Just in general terms.

24 THE WITNESS: A shoe print.

25 (Next page, please.)

1 BY MR. BUTNER:

2 Q. Okay. And is that the shoe print that you began
3 tracking from waypoint 24?

4 A. Yes.

5 Q. Okay.

6 MR. BUTNER: I would move for the admission of
7 Exhibit 2522 at this time.

8 THE COURT: Mr. Sears?

9 MR. SEARS: Your Honor, foundation objection.
10 May I have some brief voir dire?

11 THE COURT: You may.

12 MR. SEARS: Thank you.

13 Would counsel hand Exhibit 2522 identification
14 to the Court, please. I think it would be important for the
15 Court to see that.

16 THE COURT: Thank you.

17

18 V O I R D I R E E X A M I N A T I O N

19 BY MR. SEARS:

20 Q. Detective Kennedy, as I understand it when you got
21 to the Glenshandra area as you got to the area around the
22 gate, you saw what you thought was a shoe print impression in
23 the dirt; is that right?

24 A. Yes.

25 Q. And you marked a waypoint with your GPS and took

1 this photograph 2522; right?

2 A. Yes.

3 Q. Okay. And your purpose in taking 2522 was to
4 document what you were seeing on the ground; is that right?

5 A. Yes.

6 Q. Okay. Now, you've had an opportunity both on
7 Friday and again today to look at 2522 for identification,
8 and I ask you if you are contending that it accurately
9 depicts -- this photograph accurately depicts the condition
10 that you observed on July 3, 2008 at that location?

11 A. It doesn't show what -- I mean, I could see it
12 better with my own eyes.

13 Q. Okay. It would be fair to say you really can't see
14 much of anything in that photograph; correct?

15 A. I can see something in that photograph.

16 Q. Okay. Does it accurately depict all that you saw
17 on the ground on July 3, 2008?

18 A. Yes.

19 Q. Okay. That's exactly the way you saw the shoe
20 print impression? This photograph accurately captures what
21 you saw with your own eyes?

22 A. I'm telling you what I saw with my own eyes was
23 better than that picture.

24 Q. Okay. My question is about the picture. We're
25 talking about the photograph. My question is, does that

1 photograph 2522 for identification accurately depict what you
2 saw with your own eyes?

3 MR. BUTNER: Objection. Asked and answered.

4 THE COURT: Overruled.

5 THE WITNESS: So go ahead and answer the
6 question?

7 BY MR. SEARS:

8 Q. Please answer.

9 THE COURT: Yes, you may answer.

10 THE WITNESS: The photo is brighter. The
11 lighting is brighter in the photo.

12 BY MR. SEARS:

13 Q. So it doesn't accurately depict what you could see
14 with your own eyes; correct?

15 A. Sure.

16 MR. SEARS: Thank you.

17 Foundation, your Honor.

18 THE COURT: I'm sustaining the foundation
19 objection. Sustained.

20 MR. BUTNER: May I lay further foundation,
21 Judge?

22 THE COURT: Yes, you may.

23 MR. BUTNER: Thank you.

24 THE COURT: If you're able to do that.

25

1 DIRECT EXAMINATION

2 BY MR. BUTNER:

3 Q. Showing you Exhibit 2522, you indicated that it
4 doesn't accurately depict what you saw because of the
5 brighter lighting; is that correct?

6 A. Yes.

7 Q. Okay. Are you able to distinguish the features of
8 the shoe print that you took a photo of?

9 MR. SEARS: Leading.

10 THE COURT: Overruled.

11 THE WITNESS: Yes.

12 BY MR. BUTNER:

13 Q. And is the picture an accurate depiction of the
14 shoe print that you took a photo of?

15 A. Yes.

16 MR. SEARS: Asked and answered.

17 THE COURT: Overruled.

18 BY MR. BUTNER:

19 Q. And are you able to determine the direction that
20 the shoe print was going?

21 A. Yes.

22 Q. And is the photo an accurate depiction of what you
23 saw on July the 3rd, 2008 when you took this photograph other
24 than the fact that the lighting isn't as good as you would
25 have hoped?

1 A. Yes.

2 MR. BUTNER: I would move for its admission at
3 this time, Judge.

4 MR. SEARS: Same objection, your Honor.

5 THE COURT: Sustained.

6 BY MR. BUTNER:

7 Q. When you -- when you took this photograph, what
8 features were you seeking to depict in the photograph,
9 Detective Kennedy? And please don't testify from the
10 photograph, but rather from your recollection.

11 A. Well, the -- it was an entire photo -- or I was
12 trying to depict the outline of the shoe and the direction it
13 was going as well as the -- as previously mentioned, there's
14 Vs pointing --

15 MR. SEARS: Your Honor, the witness is now
16 testifying in considerable detail about something not in
17 evidence.

18 THE COURT: Overruled.

19 MR. BUTNER: Thank you.

20 BY MR. BUTNER:

21 Q. You may proceed.

22 A. There are Vs that show which direction as well the
23 shoe print --

24 MR. SEARS: 701, 702. Foundation. Move to
25 strike.

1 THE COURT: Sustained.

2 MR. SEARS: I'd move to strike, your Honor.

3 THE COURT: Granted.

4 BY MR. BUTNER:

5 Q. Detective Kennedy, were there distinguishing
6 characteristics about the shoe print that you noted there at
7 the gate which caused you to track it?

8 A. Yes.

9 Q. And what were the distinguishing characteristics
10 that you were following when you were tracking that set of
11 shoe prints?

12 MR. SEARS: Objection. Calls for 701, 702
13 expert opinion from a lay witness, your Honor.

14 THE COURT: Sustained.

15 BY MR. BUTNER:

16 Q. Were you able to track that shoe print from the
17 Glenshandra gate?

18 A. Yes.

19 Q. And did you take another photograph of that shoe
20 print when you were tracking it from the Glenshandra gate?

21 A. Yes.

22 Q. Where did you take that photograph?

23 A. I took another photograph -- do you want me to
24 point on the map?

25 Q. Yes, please.

1 A. From the Glenshandra gate, I took that first photo
2 there that you're asking me about, and then I took another
3 photo here, here, here, and here.

4 Q. Okay. Wait now. Go slow, Detective Kennedy.

5 A. Sorry.

6 Q. Okay. You took the first photo at the Glenshandra
7 gate, and that was at waypoint 24?

8 A. Correct.

9 Q. And then you took another photo of that track that
10 you were following someplace else; is that correct?

11 A. Yes.

12 Q. Okay. Would you show us the route that you tracked
13 it first of all?

14 A. I went from here up to here in here.

15 Q. Okay. Wait. Let's go step by step. You went from
16 waypoint 24?

17 A. Correct.

18 Q. To what's the next waypoint.

19 A. Waypoint 25.

20 Q. And did you track the shoe prints continuously
21 along that line?

22 A. Yes.

23 Q. Okay. And then from waypoint 25, where did you go?

24 A. To waypoint 26.

25 Q. Okay. And were you able to track the shoe prints

1 continuously on that line?

2 A. Yes.

3 Q. And then from waypoint 26, where did you go?

4 A. Stayed right here in this general area.

5 Q. Okay. Were there -- were there more than one shoe
6 print in that area?

7 A. Yes.

8 Q. Okay. And so how many waypoints did you have
9 there?

10 A. That should be waypoint 27 here.

11 Q. Okay. And then from where did you track the shoe
12 print? Show us the line, please.

13 A. Here.

14 Q. From waypoint 27 to what waypoint is that yellow X?

15 A. 28.

16 Q. Okay. And from waypoint 28, then where did you
17 track it to?

18 A. To 29.

19 Q. And which direction was it going at that point?

20 A. In an easterly direction.

21 Q. Okay. So it went from 28 to 29?

22 A. Is that east?

23 Q. Right.

24 A. Yeah, okay.

25 Q. North is up here.

1 A. Yeah, okay.

2 Q. East that way.

3 A. Yeah, so an easterly direction here.

4 Q. Okay. And from waypoint 29, did you continuously
5 track it from that point?

6 A. Yes.

7 Q. To where?

8 A. To here.

9 Q. To where?

10 A. At waypoint 6 and 30, but now it would be called
11 30.

12 Q. Okay. 6 and 30 as depicted in Exhibit 2520?

13 A. Yes.

14 Q. The one that's still up on the --

15 A. Yes.

16 Q. -- witness stand there?

17 A. Yes.

18 Q. Okay. And then from waypoint 6 and 30, where did
19 you go?

20 A. This direction here.

21 Q. And did you track it along that trail?

22 A. Yes.

23 Q. And this is track number two now; right?

24 A. Correct.

25 Q. And did you take another photograph?

1 A. Yes.

2 Q. Where at?

3 A. Right here.

4 Q. What waypoint number is that?

5 A. 31.

6 Q. Okay. Let me show you what's been marked as
7 Exhibit Number 2523. If you would resume the witness stand.

8 MR. BUTNER: May I, Judge?

9 THE COURT: Yes, you may.

10 MR. BUTNER: Thank you.

11 BY MR. BUTNER:

12 Q. Do you recognize what's depicted in Exhibit 2523?

13 A. A shoe print.

14 Q. Is that a shoe print that you photographed?

15 A. Yes.

16 Q. Where did you photograph that?

17 A. At waypoint 31.

18 Q. Okay. And is that an accurate depiction of what
19 you saw at waypoint 31?

20 A. Yes.

21 MR. BUTNER: I would move for the admission of
22 Exhibit Number 2523.

23 THE COURT: Mr. Sears?

24 MR. SEARS: No objection.

25 THE COURT: 2523 is admitted.

1 MR. BUTNER: Okay.

2 BY MR. BUTNER:

3 Q. And from waypoint 31, did you continue to track
4 that shoe print?

5 A. Yes.

6 Q. Where did you go from 31?

7 A. To waypoint 32, which is just south of --

8 Q. Would you show us with the pointer, please.

9 A. Yes. Right -- 31 is here. That's 32.

10 Q. Okay. And did you take a photograph at waypoint
11 32?

12 A. Yes.

13 Q. Let me show you what's been marked as Exhibit
14 Number 2524, please. Do you recognize what's depicted in
15 Exhibit 2524?

16 A. Yes.

17 Q. What is it?

18 A. It's a shoe print.

19 Q. And is that a photograph that you took?

20 A. Yes.

21 Q. And where did you take that photograph?

22 A. At waypoint 32.

23 Q. And did you take that on July the 3rd of the year
24 2008 when you were tracking that shoe print?

25 A. Yes.

1 MR. BUTNER: I would move for the admission of
2 Exhibit Number 2524.

3 THE COURT: Mr. Sears?

4 MR. SEARS: May I see 2524 for a moment, your
5 Honor?

6 THE COURT: Of course. Thank you, Mr. Butner.
7 (Brief pause.)

8 MR. SEARS: No objection.

9 THE COURT: 2524 is admitted.

10 BY MR. BUTNER:

11 Q. Okay. All right. And what waypoint did you take
12 the picture of -- of shoe print 2524?

13 A. That was the last one you just showed me?

14 Q. Right.

15 A. That was at waypoint 32.

16 Q. Would you point to waypoint 32 on the map for us,
17 please?

18 A. Right here.

19 Q. Okay. And then did you continue to track that shoe
20 print?

21 A. Yes.

22 Q. Where did you track it to?

23 A. To waypoint 33.

24 Q. Show us where that is, please.

25 A. That's 32. That's 33.

1 Q. Okay. And did you track it on continuously from
2 waypoint 33?

3 A. Yes.

4 Q. To where?

5 A. To waypoint 34.

6 Q. Okay. And was it following a general trail along
7 there?

8 A. Yes.

9 Q. All right. Would you describe that situation for
10 us, please? What did the trail look like in that area?

11 A. The trail right here in this area is sandy,
12 granular, kind of like decomposed granite, and in some spots
13 it was softer than in other spots.

14 Q. Okay. Was it difficult to track in that area?

15 A. Not really.

16 Q. Okay. What made it not difficult to track?

17 A. The fact that there was no other shoe prints out
18 there was helpful.

19 Q. Okay. Anything else?

20 A. Well, it went along this trail so that made it
21 quite a bit easier.

22 Q. Okay.

23 A. And it was a continuous just stride of shoes or
24 feet.

25 Q. All right. And so what waypoint are we at now

1 right here?

2 A. 34.

3 Q. Okay. And did you --

4 A. That one's 34.

5 Q. Did you continue to track it past waypoint 34?

6 A. Yes.

7 Q. Okay. Show us the route that you tracked the shoe
8 print, please.

9 A. 34 and then it continued on this way.

10 Q. To what waypoint, please?

11 A. 35 and 36.

12 Q. Okay. Was there any break in the track along
13 there?

14 A. No.

15 Q. Okay. And then did you track it from waypoint 36?

16 A. Yes.

17 Q. From where to where?

18 A. Through here.

19 Q. Okay. Did you have difficulty tracking through
20 there?

21 A. It started to become a little more difficult
22 because of the brush.

23 Q. Okay. Were you able to continuously track it
24 through that entire area though?

25 A. Yes.

1 Q. Okay. And so you went from -- what number is this
2 waypoint, please?

3 A. 35 is here, and 36 is here.

4 Q. Okay. And did you go from 36?

5 A. Yes.

6 Q. To where?

7 A. Into here.

8 Q. To what waypoint number?

9 A. Without having the waypoints on this map, it would
10 be difficult for me to tell you in here exactly which these
11 waypoint numbers are until I get to in here.

12 Q. Okay. Oh, those two that you just pointed out,
13 where are those located?

14 A. Inside the fence line.

15 Q. Okay. Would you point to them with the laser
16 pointer, please.

17 A. Right here.

18 Q. And what waypoint numbers are those?

19 A. The one closest to the fence line here would be
20 waypoint 73, and the other one would be waypoint 74.

21 Q. Okay. And did you continuously track those
22 footprints all the way from -- what waypoint is this number?

23 A. 36.

24 Q. From -- from waypoint 36 all the way to waypoints
25 number 73 and 74?

1 A. Yes.

2 Q. And that's where you placed the flags inside the
3 fence at Bridle Path?

4 A. Previously, yes.

5 Q. Okay. You had already placed them there?

6 A. Yes.

7 Q. And from that point -- well, did you take any
8 photos between 36 and 73, 74?

9 A. No.

10 Q. No photos along that area?

11 A. No.

12 Q. Okay. And then did you continue to track that
13 footprint from waypoint 73 and 74?

14 A. Yes.

15 Q. And what direction was the waypoint -- what
16 direction was the footprint headed when you tracked it after
17 73 and 74?

18 A. It first went east and then it went north,
19 northeast.

20 Q. Would you show us where it went?

21 A. 73 and 74 are here, and then it came out along
22 here.

23 Q. And did you continuously track it on that line of
24 red Xs?

25 A. Yes.

1 Q. Did you take any photographs along that track?

2 A. I did not.

3 Q. And when was the next photograph that you took in
4 regard to the track that you were following?

5 A. After this?

6 Q. Right.

7 A. After this, the next photograph I -- please repeat
8 that.

9 Q. When -- where was the next photograph that you took
10 after 73 and 74 when you were tracking?

11 A. I didn't take any more photos after 73 and 74. I
12 stopped up here at this waypoint. I quit taking pictures up
13 here.

14 Q. Okay. Well, let me show you what's been marked as
15 Exhibit Number 2525.

16 A. Okay.

17 Q. If you would resume the stand, please.

18 I think it's your -- it's your photograph
19 number 1483.

20 A. Yes.

21 MR. BUTNER: May I, Judge?

22 THE COURT: Yes.

23 BY MR. BUTNER:

24 Q. Do you recognize what's depicted in Exhibit
25 Number 2525?

1 A. It's a shoe print.

2 Q. Okay. The one that you were tracking and you've
3 just been describing?

4 A. Yes.

5 Q. Did you take that particular photograph?

6 A. Yes.

7 Q. Where was that photograph taken?

8 A. That was at waypoint 33.

9 Q. Would you point to waypoint 33 for us, please?

10 A. 33's right here.

11 Q. And does that photograph accurately depict what you
12 saw when you were tracking that shoe print on July 3rd of
13 the year 2008?

14 A. Yes.

15 MR. BUTNER: I would move for the admission of
16 Exhibit Number --

17 MR. SEARS: May I see 2525, your Honor?

18 THE COURT: Yes.

19 MR. BUTNER: -- 2525.

20 MR. SEARS: No objection.

21 THE COURT: Okay. 2525 is admitted. And,
22 Mr. Butner, could you for just a moment display the exhibit
23 to me? I'm not able to see it and so if I could -- that
24 exhibit, but the one on the board. That is admitted 2525.
25 Yes, I'm not able to see that, and I just want to orient

1 myself.

2 BY MR. BUTNER:

3 Q. Would you point on the map to the waypoint at which
4 photograph 1483, Exhibit 2525, was taken?

5 THE COURT: Mr. Butner, if you'd swivel the
6 chair. I want to make sure the jury is seeing what I'm
7 seeing also and if counsel wishes to go over there, but if
8 you'd -- if you'd make that request again, please, so I can
9 orient myself.

10 BY MR. BUTNER:

11 Q. Would you point to waypoint -- I think you said it
12 was waypoint --

13 A. 33.

14 Q. Okay. Would you point to that particular waypoint
15 where you took this photograph?

16 A. Right here.

17 THE COURT: Okay. Thank you.

18 BY MR. BUTNER:

19 Q. And then did you take any photographs at any other
20 waypoints along the way?

21 A. At waypoint 34.

22 Q. Okay. Let me show you what's been marked as
23 Exhibit Number 2526, your photograph 1484. Did you take that
24 particular photograph?

25 A. Yes.

1 Q. And at what waypoint did you take that photograph?

2 A. I took it at waypoint 34.

3 Q. And you're pointing to the map again.

4 A. Right here, sir.

5 Q. And does that photograph accurately depict the way
6 the photograph appeared to you when you were tracking it on
7 July the 3rd of the year 2008?

8 A. It's not very clear. This photo's not very clear.

9 Q. Not a very good photograph?

10 A. No, it's not.

11 Q. Okay. So your -- your vision -- visual acuity
12 showed the footprint in a worse condition or a better
13 condition or how as compared to that photograph?

14 A. A better condition.

15 Q. You were able to see the photograph better -- or I
16 mean the footprint better than --

17 A. Yes.

18 Q. -- the photo?

19 A. Yes.

20 MR. BUTNER: With that qualification, Judge,
21 I would move for the admission of I think it's Exhibit 25 --

22 MR. SEARS: Same foundation as 2522, your
23 Honor. It's not an accurate depiction.

24 MR. BUTNER: -- 2526.

25 THE COURT: Overruled. It will be admitted.

1 And 2526 is admitted.

2 BY MR. BUTNER:

3 Q. Let me show you what's been marked as --

4 MR. BUTNER: Let's see, 2525 is in already,
5 isn't it?

6 THE COURT: Yes.

7 MR. BUTNER: And is 2523 in already, Judge?

8 THE COURT: Yes.

9 MR. BUTNER: I think it is.

10 THE COURT: Mr. Butner, if you have further
11 questions on the aerial there, please feel free to move it
12 closer to the jury. I was able to see what I needed to.

13 MR. BUTNER: Okay. Thanks, Judge.

14 JUROR NO. 2: Is 2524 admitted, your Honor?

15 THE COURT: Yes.

16 JUROR NO. 2: Thank you.

17 BY MR. BUTNER:

18 Q. Okay. Let me show you what's been marked for
19 identification as Exhibit Number 2521, your photograph 1479.

20 MR. BUTNER: May I, Judge?

21 THE COURT: Yes.

22 BY MR. BUTNER:

23 Q. Do you recognize what's depicted in that particular
24 photograph?

25 A. Yes.

1 Q. Did you take that photograph?

2 A. Yes.

3 Q. And where did you take that photograph?

4 A. I took that photograph at waypoint 6 and waypoint
5 30.

6 Q. Okay. Would you point again on the map to the
7 location where you took that photograph?

8 A. Right here.

9 Q. Okay. And is that the same location that you took
10 photograph number 1478 --

11 A. Yes.

12 Q. -- admitted into evidence as 2520?

13 A. Yes.

14 Q. Okay. Is it a duplicate of photograph 2520?

15 A. No.

16 Q. Did you do something different for that particular
17 photograph?

18 A. Yes.

19 Q. What was that?

20 A. I put a scale in there.

21 Q. Okay. And are you the person that placed the scale
22 there?

23 A. Yes.

24 Q. For what reason did you place the scale?

25 A. To show the approximate size of that shoe print.

1 Q. Okay. In terms of measurement?

2 A. Correct.

3 Q. Inches or what have you?

4 A. Yes.

5 Q. And did you take this photograph also on July the
6 3rd of the year 2008?

7 A. Yes.

8 Q. Okay. Does it accurately depict what you observed
9 at waypoint 6 and 30?

10 A. 30, yes.

11 MR. BUTNER: Okay. I would move for the
12 admission of Exhibit Number 2521 at this time.

13 MR. SEARS: No objection.

14 THE COURT: 2521 is admitted.

15 BY MR. BUTNER:

16 Q. Okay. So if I understand your testimony, you
17 started tracking track two at the Glenshandra gate?

18 A. I --

19 MR. SEARS: Misstates the evidence, your
20 Honor.

21 THE COURT: Sustained.

22 BY MR. BUTNER:

23 Q. Where did you start tracking track two?

24 A. I -- I started tracking track two here behind the
25 house.

1 Q. At what waypoint location?

2 A. Waypoint 73 and 74.

3 Q. Okay. And from there, where did you track it to?

4 A. Approximately four or five waypoints in here.

5 Q. Okay. Did you cease tracking it at that point?

6 A. Yes.

7 Q. And then did you begin tracking again at a
8 different location?

9 A. Yes.

10 Q. Where was that?

11 A. At the Glenshandra Trailhead at waypoint 24.

12 Q. Okay. And did you then track continuously from the
13 Glenshandra Trailhead, waypoint 24?

14 A. Yes.

15 Q. Would you show us the entire track that you tracked
16 from that point with the pointer. I'm going to move this
17 down.

18 A. This is waypoint 24, and we came up this path to
19 here.

20 Q. When you say we, who are you talking about?

21 A. Commander Mascher and I.

22 Q. So Commander Scott Mascher was tracking with you?

23 A. Correct.

24 Q. The two of you?

25 A. Yes.

1 Q. Okay. So show us the route, please.

2 A. And in through here and then on out on the yellow
3 crosses. And then just a general path in here. Without
4 having waypoint numbers on those, I can't tell you which --

5 Q. Okay. Now wait now. Go slowly here.

6 A. Okay.

7 Q. You have a lot of waypoints beginning at this
8 location in the lower right-hand portion of the map.

9 A. Yes.

10 Q. For what reason do you have a lot of waypoints
11 there?

12 A. The reason that I put a lot of waypoints there is
13 because this area is very brushy and somewhat dense and I was
14 trying to follow a general direction that the shoe print was
15 going in and it would turn and go different directions in
16 here. So I was trying to hit so it could -- we could show a
17 path of say, for instance, it went from here to here to here
18 and maybe this one to this one to this one to -- kind of like
19 a connect the dots kind of theory is what I had and so if the
20 waypoint numbers were on there, you could generally show
21 which -- it went from point A, B, C, D.

22 Q. Okay. And were there a lot of footprints in that
23 area?

24 A. There were a lot of the same shoe print in that
25 area.

1 Q. Okay. And you said that was a brushy area?

2 A. Correct.

3 Q. Were you glad you had your long sleeves on at that
4 point?

5 A. Yes.

6 Q. Okay. And show us where it went from where you
7 just showed us.

8 A. It went in through here and along this direction.
9 Again, without having the waypoint numbers, I can't tell you
10 from which point it went to here continued on through here.

11 Q. Right.

12 A. And then along in here.

13 Q. Right.

14 A. And then up to the backside of the residence and
15 across the fence.

16 Q. Okay. Was this a continuous track of footprints
17 that you followed?

18 A. Yes.

19 Q. And was the back part of the Bridle Path residence
20 visible while you were tracking those footprints back there?

21 A. Up into here it was.

22 Q. When did it become visible for you as you were
23 doing your tracking?

24 A. A clear view for me was back in here, but, again, I
25 wasn't looking for the house. I was concentrating on shoe

1 prints.

2 Q. I understand that.

3 A. So -- but back in here, you could see the back of
4 the house and then off --

5 Q. Show us where it first became visible to you.

6 A. Well, it first became visible here.

7 Q. And backing up from waypoint 73 and 74?

8 A. Those would probably be the 70s, the lower 70s.

9 Q. Okay. Back in that area there, you could see the
10 back of the house?

11 A. Yes.

12 Q. And then did you continue tracking it from that
13 area back in there?

14 A. Yes.

15 Q. And show us the route that you traveled when you
16 tracked those footprints?

17 A. It went back from this area back across the fence
18 and follows this -- now the red Xs.

19 Q. And did you continuously track it on that trail?

20 A. Yes.

21 Q. And where did it take you?

22 A. Back to where these bicycle tracks stopped.

23 Q. And when you say these bicycle tracks stopped, do
24 you have waypoints to indicate where the bicycle tracks
25 stopped?

1 A. Correct. Yes.

2 Q. Where are they?

3 A. The bicycle tracks stopped at waypoint 27, I
4 believe.

5 Q. Okay. Is that that blue square?

6 A. Yes.

7 Q. And what was the condition of the topography in
8 that particular area?

9 A. Where the bicycle tracks were stopped, it was a
10 little bit brushy. There was a clearing here. It was clear
11 to here back to waypoint 24. In here, it was brushy. All
12 along on these red squares, it was brushy. And then again
13 right in here, the wash was kind of sandy and again here, it
14 was a little bit sandy.

15 Q. And you were able to track the trail continuously
16 through those areas?

17 A. Yes.

18 MR. BUTNER: I'd like to publish some of these
19 photos now for the jury, Judge.

20 THE COURT: Okay. Please identify them as you
21 do.

22 MR. BUTNER: I will. Thank you.

23 THE WITNESS: May I resume?

24 MR. BUTNER: You may resume. Thank you.

25 (Next page, please.)

1 BY MR. BUTNER:

2 Q. Okay. I'm showing you what's been admitted into
3 evidence as Exhibit Number 2520. Do you recognize that
4 particular photograph?

5 A. Yes.

6 Q. Okay. Which shoe track -- or what is depicted in
7 this photograph that you were tracking when you took this
8 photograph?

9 A. That's my 1478 photo? Sorry.

10 Q. Yes, your photograph number 1478.

11 A. That shows track one and track two in the same
12 picture.

13 Q. Would you point to the track that you were tracking
14 at the time that you took the photograph first?

15 A. That is up here in this corner would be track one.

16 Q. Okay.

17 A. And that would be the heel print. The toe would be
18 going this direction here, and it's very difficult to see,
19 but there's the Z impression up in here.

20 Q. Okay.

21 A. Or the N impression.

22 Q. And then when you came back and you tracked -- you
23 were tracking track two, at what point -- at what point did
24 you encounter this same -- same situation? When you were
25 tracking track two, at what waypoint did you encounter this

1 same situation as depicted in the photograph?

2 A. On track -- track two would be waypoint number 30.

3 Q. Okay. And where is that again?

4 A. That's right there.

5 Q. Okay. And then is this another picture of the same
6 situation that you saw at that location only with your scale
7 in it?

8 A. Yes.

9 Q. And referring to --

10 MR. BUTNER: This is Exhibit Number 2521 for
11 the record, Judge.

12 THE COURT: Thank you.

13 BY MR. BUTNER:

14 Q. And is the scale laying across the shoe print that
15 you were tracking as track one?

16 A. Yes. Up in this area, yes.

17 Q. Okay. And then I'm showing you Exhibit
18 Number 2524. Do you recognize that particular photograph?

19 A. The number?

20 Q. Your photo number?

21 A. Yes, please.

22 Q. Okay. 1482.

23 A. 1482 would be waypoint 30. That would have been
24 the photo taken at waypoint -- did you say 82? I'm so sorry.
25 I believe it's taken at waypoint 32.

1 Q. I'll look at it again. Your photograph 1482.

2 A. Would have been at waypoint 32, which would have
3 been right here.

4 Q. And you were tracking track -- which track at that
5 point?

6 A. Track two.

7 Q. Track two.

8 And then I'm showing you 1483 is your photo
9 number, and that would be Exhibit Number 2525.

10 A. That would have been at waypoint 33.

11 Q. Okay. Looking at this particular photograph, it's
12 kind of -- the light seems to wash it out some, but can you
13 outline on the photograph for the jury where the footprint
14 that you were tracking is?

15 A. May I look at the actual photo?

16 Q. Sure you can.

17 A. Oops. Sorry. This is the middle of the shoe here.
18 This would be the heel portion, and this would be the toe
19 portion going in this direction.

20 Q. Okay. And then you actually went out there on
21 another date and assisted the back country team in doing some
22 tracking; right? Or not tracking, searching? I'm sorry.

23 A. Correct. An evidence search.

24 Q. An evidence search. And what were you searching
25 for at that point in time?

1 A. Any weapon that could have caused her death.

2 Q. Okay. And did you take another photograph at that
3 point in time?

4 A. Yes.

5 Q. And what did you find that caused you to take
6 another photograph?

7 A. We found a piece of rebar.

8 Q. Okay. And what date did you take that photograph?

9 A. On July 6th.

10 Q. That's the day you were out with the back country
11 team?

12 A. Correct.

13 Q. And also Detective Surak?

14 A. Correct.

15 MR. BUTNER: Okay. Let me -- may I approach,
16 Judge?

17 THE COURT: Yes, you may.

18 BY MR. BUTNER:

19 Q. Let me show you what has been marked as 2527. Do
20 you recognize that particular photograph?

21 A. Yes.

22 Q. Did you take that photograph on July the 6th?

23 A. Yes.

24 Q. And for what reason did you take that photograph?

25 A. I believe I was the person that had the camera.

1 Q. Okay.

2 A. And it -- we believed it could have possibly been
3 used to cause her death and so we seized it as evidence.

4 Q. What were you taking a picture of?

5 A. A piece of rebar.

6 Q. Okay. And you're the person that took the
7 photograph? Approximately what time of day was this on July
8 the 6th?

9 A. It was very early in the morning on July the 6th.

10 Q. And do you recall where this piece of rebar was
11 located?

12 A. I can give you a general area, but not specific,
13 no.

14 Q. Okay. Would you show us on the map there in the
15 general area where the piece of rebar was located, please?

16 A. It was located back in here, I believe.

17 MR. BUTNER: Okay. I would move for the
18 admission of Exhibit 25 -- I believe it's 2527 at this time.

19 THE COURT: Mr. Sears, do you have access to
20 it?

21 MR. SEARS: May I see 2527, your Honor?

22 THE COURT: Yes.

23 MR. SEARS: No objection.

24 THE COURT: 2527 is admitted.

25 (Next page, please.)

1 BY MR. BUTNER:

2 Q. Okay. Now, when you were doing all this tracking,
3 what was the general condition of this topography through
4 which you were doing your tracking?

5 A. The general condition, parts of it are very brushy.
6 As I said, there are some very sandy parts and then
7 there's -- it's kind of granular in that area as far as the
8 dirt is. Some parts of that dirt were more firm than the
9 other because the washes were again sandy.

10 Q. Show us the parts that were the brushy parts.

11 A. The brushy parts obviously where these trees are at
12 on this map right in here.

13 Q. And do the footprints go through those brushy
14 parts?

15 A. Yes, they did. And then again, more brush out here
16 in this area.

17 Q. And did the footprints go through those areas also?

18 A. Yes.

19 Q. When you were tracking, did you get scratched?

20 A. No, because I put a long-sleeved shirt on.

21 Q. And what was the kind of brush that was in those
22 areas?

23 A. Looked like manzanita and scrub oak.

24 Q. And did it do any damage to your shirt?

25 A. No. It was a BDU jacket, so it's very thick

1 material.

2 Q. What is BDU?

3 A. Battle Dress Uniform I think is what it stands for.
4 Camouflage, very heavy canvas-type material.

5 Q. Okay. Heavy canvas?

6 A. Yes.

7 Q. On October 23rd of the year 2008, were you
8 involved in further activities in connection with this case?

9 A. Yes.

10 Q. What did you do on that particular day?

11 A. On October 23rd, I was assigned to a search
12 location.

13 Q. Okay. What was the search location to which you
14 were assigned?

15 A. It was the UBS building, office building.

16 Q. Right. And did you search any other places in
17 addition to the UBS office building?

18 A. I was present during another search.

19 Q. Okay. And actually were you listed as a finder in
20 regard to another search on that date?

21 A. Yes.

22 Q. Okay. And where was that search at?

23 A. That was on Gurley Street, and I think it was
24 called Gurley Self Storage.

25 Q. Okay.

1 A. And I believe it was Unit 951.

2 Q. Okay. Let me show you what has been --

3 MR. BUTNER: Judge, I would move for the
4 admission of Exhibit 801 at this time. It's a search warrant
5 as a self-authenticating document.

6 THE COURT: Mr. Sears?

7 MR. SEARS: Your Honor, the authentication
8 from the clerk doesn't indicate how many pages were contained
9 in the document when it was certified. The copy of 801 that
10 we have has a number of different documents related to
11 different portions of this search, including handwritten
12 supplements, so I'm not sure if those are part of the Court's
13 record. I'm not sure we have enough foundation at this
14 point. That would be my objection.

15 THE COURT: That's something that can be
16 verified rather quickly. Why don't we go ahead and take a
17 recess. We're going to have to take a recess this morning
18 anyway.

19 Ladies and gentlemen, let's take about a
20 15-minute recess. Please be reassembled at 11:05, and we'll
21 start soon after that. Remember the admonition. I'm going
22 to ask that the parties remain for a moment. Thank you.

23 (Recess from 11:01 a.m. to 11:19 a.m.)

24 ---oOo---

25 (Proceedings were held in the absence of the

1 jury.)

2 ----oOo----

3 THE COURT: Please be seated. Thank you.

4 The record will show the presence of the
5 defendant, the attorneys, and the jury.

6 The witness, Detective Kennedy, is on the
7 witness stand, and, of course, you remain under oath for all
8 testimony in this case. You understand that, ma'am?

9 THE WITNESS: Yes.

10 THE COURT: Okay. Thank you.

11 Mr. Butner, you may.

12 MR. BUTNER: Okay. Judge, concerning the
13 search warrant, the State would offer Exhibit Number 801 at
14 this time.

15 THE COURT: Mr. Sears, if you'd look at that,
16 please.

17 MR. BUTNER: Judge, we have an agreement
18 that -- which of course is the section that has the search
19 warrant sticker exhibit number on it. We have an agreement
20 that the regular information form we discussed earlier may be
21 excised.

22 THE COURT: Okay. That's ordered.

23 MR. BUTNER: Should I just go ahead and do
24 that at this point?

25 THE COURT: Mr. Sears, go ahead.

1 MR. SEARS: Maybe the clerk could take the
2 sticker and put it on what will be the new last page of that
3 exhibit so we don't have to resubmit the entire exhibit.

4 THE COURT: Okay. At this time, Mr. Butner
5 will go ahead and disassemble the exhibit and remove the one
6 part, correct.

7 MR. SEARS: Yeah. And subject to that, your
8 Honor, I have no objection to that exhibit.

9 THE COURT: Okay. And after you remove that
10 and you get it marked and then just -- just to make sure, I'm
11 just going to have the defense see the final exhibit before
12 it's admitted. And Mr. -- okay. Mr. Sears, if you'd look at
13 that and then that should be the form of the exhibit.

14 MR. SEARS: No objection, your Honor.

15 THE COURT: And that's 801; correct?

16 MR. BUTNER: Yes, your Honor.

17 THE COURT: 801 is admitted.

18 MR. BUTNER: Thank you.

19 BY MR. BUTNER:

20 Q. So you were part of the team that executed the
21 search warrant at 951 West Gurley Street in Prescott?

22 A. I was present. I went there after they had already
23 started that search.

24 Q. Okay. And you did a little bit of searching there
25 yourself; right?

1 A. Yes.

2 Q. And that was at space A11?

3 A. I thought it was 951, but I do not know for
4 certain.

5 Q. Well, 951 is the address.

6 A. Oh, okay.

7 Q. And when you were searching -- this was
8 Mr. DeMocker's storage unit; is that correct?

9 A. That's what I was told.

10 Q. Okay. And when you were searching, what were you
11 looking for?

12 A. I'm not exactly sure. I had not gone to that
13 location. I was at a different search location prior to
14 that.

15 Q. Right.

16 A. And they were just looking for evidence related to
17 a specific crime.

18 Q. Okay. And did you find anything of particular
19 significance when you were searching at the -- at the storage
20 unit on Gurley Street?

21 A. I observed some things there, yes.

22 Q. What did you observe?

23 A. The evidence technician that was there with us
24 discovered some books.

25 Q. And were you seizing something when she was

1 discovering those books?

2 A. Actually, she was looking in a box, and I was
3 looking in the same box. She discovered the books, and I saw
4 another item there.

5 Q. Okay. And you seized a different item, and you
6 watched her seize the books?

7 A. Yes.

8 Q. Okay. And how many books were seized?

9 A. Three.

10 Q. Okay. Let me show you what's been marked as --
11 okay. Let me show you what's been marked as Exhibit Number
12 525 and then 526 and 527.

13 MR. BUTNER: May I approach, Judge?

14 THE COURT: Yes.

15 BY MR. BUTNER:

16 Q. I'm showing you Exhibit Number 525 first. Do you
17 recognize that particular photograph?

18 A. Yes.

19 Q. Okay. Is that -- what is that a photograph of?

20 A. A book.

21 Q. Okay. Is that one of the books that you saw that
22 was seized at the storage unit?

23 A. Yes.

24 Q. Okay. And you were present when the book was
25 seized?

1 A. Yes.

2 Q. Okay. And let me show you what's been marked as
3 Exhibit 526. Do you recognize what's depicted in that
4 particular photograph?

5 A. Yes.

6 Q. And what is it?

7 A. A book.

8 Q. Is it one of the books that you observed at the
9 Gurley Street storage unit?

10 A. Yes.

11 Q. And is it one of the books that was seized on that
12 date on October 23rd of the year 2008?

13 A. Yes.

14 Q. And similarly with Exhibit 525, that was seized on
15 October 23rd of 2008?

16 A. Yes.

17 Q. And then let me show you what's been marked as
18 Exhibit 527. Do you recognize that particular item?

19 A. Yes.

20 Q. What is it?

21 A. A book.

22 Q. And is it a photograph of one of the books that was
23 seized at the Gurley Street storage unit on October 23rd of
24 the year 2008?

25 A. Yes.

1 Q. Were you present when it was seized?

2 A. Yes.

3 Q. In fact, you were seizing an item in the same box;
4 is that correct?

5 A. Yes, basically.

6 MR. BUTNER: I would move for the admission of
7 Exhibits Number 525, 526, and 527.

8 MR. SEARS: No objection.

9 THE COURT: 525 through 527 inclusive are
10 admitted.

11 BY MR. BUTNER:

12 Q. And did you bring the actual books with you today?

13 A. Yes.

14 MR. BUTNER: Okay. Judge, I'd like to
15 replace -- in this instance, I think I'd like to replace the
16 photographs with the actual books.

17 THE COURT: I think the practice would be
18 for -- well, demonstrative purposes, the books would be
19 available. The photos would actually constitute the record.

20 Mr. Sears?

21 MR. BUTNER: Okay.

22 MR. SEARS: Your Honor, there may be
23 additional objections to the books themselves. This witness
24 is testifying about the photographs. I would be surprised if
25 she had read the books or knew anything about the contents,

1 so I would think at this point all the foundation that exists
2 is already for the photographs of the covers of these books.

3 THE COURT: Okay. At this time, then exhibits
4 admitted 525, 26 and 27, they are admitted and they may be
5 displayed.

6 MR. BUTNER: Okay. Thank you.

7 BY MR. BUTNER:

8 Q. I show you what's been marked -- what is admitted
9 into evidence as Exhibit 525. And is that one of the books
10 that was seized there at the storage unit?

11 A. Yes.

12 Q. Okay. Mr. DeMocker's storage unit; is that
13 correct?

14 A. Yes.

15 Q. And you were present when it was seized?

16 A. Correct.

17 Q. And you actually have the books with you today?
18 They were placed in evidence; is that right?

19 A. Correct.

20 Q. Okay. And that's Exhibit 525.

21 And here's Exhibit 526. And is that one of
22 the books that was seized out of that same box?

23 A. Yes.

24 Q. Okay. And then showing you what's admitted into
25 evidence as Exhibit -- I guess we should say the title for

1 the record. Exhibit 526 is -- what is the title of that
2 book?

3 A. *Advanced Fugitive: Running, Hiding, Surviving, and*
4 *Thriving Forever.*

5 Q. Okay. And then Exhibit Number 525, what is the
6 title of that book?

7 A. *Cover Your Tracks Without Changing Your Identity:*
8 *How to Disappear Until You WANT to Be Found.*

9 Q. Okay. And then Exhibit Number 527, is that one of
10 the books that was seized also?

11 A. Yes.

12 Q. And what is the title of that book?

13 A. *How to be Invisible.* And I can't read the rest of
14 it.

15 Q. Maybe I can focus it a little better. Maybe I
16 can't. Let me see.

17 A. I can read it now.

18 Q. Okay.

19 A. *How to be Invisible: The Essential Guide to*
20 *Protecting Your Personal Privacy --* and I can't read that
21 word under the yellow -- *and Your Life.*

22 Q. Okay. All right.

23 MR. BUTNER: Judge, if we could have that
24 stipulation read now in connection with this case, I'd
25 appreciate it very much.

1 THE COURT: I do have a copy of that. Counsel
2 has that.

3 Ladies and gentlemen, this is a stipulation
4 that has been reached between the parties. It is hereby
5 stipulated between the parties that on July 5th, 2008,
6 Mr. Sears took possession of a Callaway golf club headcover
7 from Mr. DeMocker. Mr. Sears inspected the cover and finding
8 no apparent biological evidence on it, placed it in a sealed
9 envelope and kept it in his locked office for safekeeping
10 until October 23, 2008 when Mr. Sears turned the headcover
11 over to law enforcement at their request. Then signed by an
12 attorney for each of the parties.

13 MR. BUTNER: Thank you, your Honor.

14 BY MR. BUTNER:

15 Q. And do you have that item with you today, Detective
16 Kennedy?

17 A. Yes.

18 Q. Would you please open it up.

19 MR. BUTNER: May she remove the item from the
20 box, your Honor?

21 THE COURT: She may.

22 MR. BUTNER: Thank you.

23 THE WITNESS: Go ahead and open this?

24 BY MR. BUTNER:

25 Q. And you placed it into evidence; is that correct,

1 Detective Kennedy?

2 THE COURT: I guess -- just a second,
3 Mr. Butner. It's kind of being offered in the open.

4 Mr. Sears, any objection?

5 MR. SEARS: No.

6 THE COURT: Okay. Then, yes, she may.

7 MR. BUTNER: Thank you, Judge.

8 THE WITNESS: Your question again?

9 BY MR. BUTNER:

10 Q. And you placed it into evidence; is that correct,
11 Detective Kennedy?

12 A. Yes.

13 Q. Go ahead and open your evidence bag, please. You
14 may remove it. And is that the item that you obtained on
15 October 23rd of the year 2008?

16 A. Yes.

17 Q. Then I'm going to show you what's been marked for
18 identification as Exhibit 530. It's actually two
19 photographs. Do you recognize what's depicted in those
20 photographs? Please take a look at both of them.

21 A. Yes.

22 MR. BUTNER: Okay. In place of the actual
23 headcover, Judge, I would move for the admission of these
24 photographs for the record, Exhibit Number 530.

25 MR. SEARS: No objection.

1 THE COURT: 530 is admitted.

2 MR. BUTNER: Thank you. And I'd like to
3 publish the actual item to the jury in terms of putting it on
4 the overhead projector.

5 THE COURT: You may do that.

6 MR. BUTNER: Thank you.

7 Yeah, you go ahead and do it. You've got the
8 gloves. Thank you. Thank you very much. You may resume the
9 stand.

10 Madam clerk. Thank you.

11 I have no further questions of this witness at
12 this time, Judge.

13 THE COURT: Thank you, Mr. Butner.

14 Mr. Sears, you may cross-examine.

15 MR. SEARS: Thank you.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. SEARS:

19 Q. Good morning, Detective.

20 A. Hi.

21 Q. You can take those gloves off.

22 THE BAILIFF: Your Honor, do we want to
23 take --

24 MR. SEARS: Oh, please do. Thank you.

25 THE COURT: If you would go ahead and you can

1 take the gloves off and go ahead and shut down the overhead.

2 MR. SEARS: Yeah. We can actually leave it
3 on. Just take that headcover off of there before it catches
4 fire.

5 THE COURT: Thank you, Detective.

6 THE WITNESS: Okay.

7 THE COURT: Mr. Sears.

8 MR. SEARS: Thank you.

9 BY MR. SEARS:

10 Q. Good morning.

11 A. Hi.

12 Q. Okay. Let's talk if we could a little bit about
13 your background and experience. Could you remind us again
14 how many years you've been with the Yavapai County Sheriff's
15 Office?

16 A. I graduated out of the academy, the law enforcement
17 academy, in 1994.

18 Q. So you're into 16 years with the Sheriff's Office;
19 is that right?

20 A. I did a year prior to that in dispatch.

21 Q. Working for the Sheriff's Office?

22 A. Correct.

23 Q. And dispatch is handling radio calls and traffic
24 between police officers; right?

25 A. Yes.

1 Q. Okay. And then you went to the -- did you do that
2 after you went to the academy or before you went to the
3 academy?

4 A. I was dispatcher first, and then I went to ALEDA.

5 Q. In Tucson?

6 A. Correct.

7 Q. And then you became a patrol deputy here; right?

8 A. Yes.

9 Q. And what area did you patrol?

10 A. Prescott.

11 Q. And how long were you a patrol deputy before you
12 became a detective?

13 A. About six years, six or seven years.

14 Q. Okay. And during that whole time, you patrolled
15 the Prescott area; is that right?

16 A. That's my primary assignment, yes.

17 Q. Okay. Did you ever have any calls in the general
18 area of 7485 Bridle Path in Williamson Valley as a patrol
19 deputy?

20 A. I probably did. I wouldn't know at that point all
21 my calls.

22 Q. Do you remember being in that location at least
23 before the night of July 2nd, 3rd, 2008?

24 A. At that specific location?

25 Q. Yes.

1 A. I do not remember.

2 Q. Have you ever been out on the Deep Well Ranch
3 before July 2nd, 3rd of 2008?

4 A. I don't know specifically where the Deep Well Ranch
5 is.

6 Q. If you went out of the back of Bridle Path to the
7 barbed wire fence we've talked about and went over through
8 the barbed wire fence, there you are, you're on the Deep Well
9 Ranch, and it goes all the way to 89 all the way north to the
10 Outer Loop Road and south quite some distance almost to
11 Pioneer Parkway.

12 A. Okay.

13 Q. Do you think you've ever been there on police
14 business before this case?

15 A. I may have.

16 Q. How about the Granite Mountain trail area on the
17 other side of Williamson Valley Road and Bridle Path? Have
18 you ever been up on any of those trails?

19 A. Where the old fire station is?

20 Q. Yes.

21 A. Yes, I've been back there.

22 Q. Okay. On -- on what sort of circumstance?

23 A. Hiking.

24 Q. For -- hiking for work or for pleasure?

25 A. For pleasure.

1 Q. Okay. Now, during your six years as a patrol
2 deputy, did you receive any training in the collection and
3 handling of evidence?

4 Can you hold on just a second. Thank you,
5 Phil.

6 Do you remember my question?

7 A. I thought you were in the middle of a question.
8 Was that it?

9 Q. Yes.

10 A. Probably.

11 Q. Okay. Do you remember what that training might
12 have been?

13 A. Just how to handle a crime scene basically.

14 Q. Okay. How about the actual collection of evidence?
15 We had a good example here just now. You had a cardboard
16 box, it had tape on it, and inside that was a brown paper bag
17 that had tape on it and you were very careful in putting on
18 gloves and using your knife to open the bag. Right?

19 A. Yes.

20 Q. Okay. And every time you handle evidence that's
21 been collected in a crime case, you and everybody else in the
22 Sheriff's Department put gloves on; right?

23 A. Typically, yes.

24 Q. Okay. It's not necessary because you're afraid of
25 biological evidence? It's just to protect the evidence item

1 itself; right?

2 A. Both. You don't want to get -- you don't want to
3 transfer of your whatever to that or that to you.

4 Q. Right. Just a good practice; right?

5 A. Yes.

6 Q. And you've always done that in the 16 years that
7 you've been a police officer? You would not ever handle
8 evidence without gloves; right?

9 A. I have if it's like paperwork.

10 Q. Okay. Something like a golf head club or a piece
11 of rebar or a knife, you would always glove up for that;
12 right?

13 A. Those items I would have gloved up for, yes.

14 Q. Now, the packaging that we have here, could you put
15 that box -- have you got that box right there? Could you put
16 that up on the rail there so the jury can see what we're
17 talking about? And if you could hold that up so the jury can
18 see that. That has a bunch of writing and other stickers and
19 seals on it. Could you hold that up for a second?

20 A. Do you want me to put it back the way it was?

21 Q. Sure. Sure. Okay. And it's hard to see from
22 where you are if you're sitting in the jury box, but there's
23 a lot of writing on that box; right?

24 A. Yes.

25 Q. And so the idea is, among other things, when you're

1 handling evidence as a police officer, Yavapai County
2 Sheriff's Office, you always want to be able to document what
3 happens to that evidence and what's done with it as the case
4 progresses; right?

5 A. Typically, yes.

6 Q. Okay. And that's sometimes called chain of
7 custody; right?

8 A. Yes.

9 Q. Chain of custody is important in court cases to
10 show that in this case, the police have had control of that
11 box since October 23rd, 2008, that box containing the
12 headcover; right?

13 A. Yes.

14 Q. Okay. And the initials are various people from
15 time to time who have opened or handled that exhibit for a
16 number of different purposes; right?

17 A. Yes.

18 Q. So they'll open it up with their knife putting
19 their gloves on and then when they seal it up, they'll put
20 their initials and other identifying information on the box
21 and on the bag; right?

22 A. I don't know what they put on the bag. Probably if
23 they open the bag, yes.

24 Q. Could you take a peek at the bag for us and maybe
25 hold that up for the jury to see. And that's an official

1 Yavapai County Sheriff's Office bag; right?

2 A. It's one that we used on this occasion.

3 Q. Okay.

4 A. I don't believe this is a typical bag that the
5 Sheriff's Office was using because our bags don't typically
6 say evidence and have all this information on them.

7 Q. Do you know whose bag it is?

8 A. I believe -- and I'm not absolutely certain, but I
9 believe it came through the County Attorney's Office.

10 Q. Okay. So there are County Attorney bags and
11 Sheriff bags?

12 A. Yeah. Our bags are plain.

13 Q. Okay.

14 A. Or were plain.

15 Q. There you go. All right. And there would be
16 records kept by the evidence technicians that work at the
17 Sheriff's Office that would log all the activity for every
18 item of evidence in this case; right, when it was entered,
19 who used it, where it went, chain of custody sheets; right?

20 A. Yes.

21 Q. Okay. And those are an important part of every
22 case that you work on; right?

23 A. Yes.

24 Q. Okay. And the reason they're important is because
25 they allow anybody to go in and take a look at those and get

1 the history of what was done with each item of evidence;
2 right?

3 A. I'm not sure what they reflect on the back because
4 I don't really deal with the evidence unless I sign it in or
5 I sign it out, so I would fill out the face sheet. The
6 evidence technicians take care of whatever is on the back,
7 and I don't know what notations they put on there.

8 Q. Okay. We may hear from some evidence technicians
9 later on in this case, and I'll bet they can explain this.

10 But your understanding after all your years of
11 police work is that recordkeeping with respect to evidence is
12 a key part of preservation of that evidence; right?

13 A. Yes.

14 Q. Okay. And so that there could be no question
15 about, for example, when this item was sent out to the crime
16 lab? That information should be both on the bags and the box
17 and they're also on some chain of custody document; right?

18 A. That's my understanding.

19 Q. Okay. And when it goes out to the lab, it's logged
20 in; when it comes back from the lab, it's logged in; right?

21 A. It should be, yes.

22 Q. And when it's at the lab, presumably the lab has
23 its own internal recordkeeping? They keep track once it
24 arrives on their doorstep until they send it back to you;
25 right?

1 A. I have no idea.

2 Q. Okay. Now, let's talk a little bit about the
3 difference between your tracking work that you've told us so
4 much about and collection of evidence at the crime scene.
5 Okay. My understanding from talking to you last December and
6 hearing you testify the last couple of days here is that you
7 have some training and also some on-the-job experience as a
8 tracker; right?

9 A. Yes.

10 Q. And part of tracking includes as you've told us
11 here today again following what you believe is a trail of
12 shoe print impressions; correct?

13 A. Yes.

14 Q. And that could be in the dirt, it can be in snow,
15 it could be on -- if we had beaches here, it could be on a
16 sandy beach; right?

17 A. Yes.

18 Q. But there are other things that trackers look for
19 besides shoe print impressions; right?

20 A. On occasion, yes.

21 Q. Okay. There could be, for example, open gates or
22 disturbed brush or broken limbs on trees, other things that
23 might give you an idea that somebody went through a
24 particular area; right?

25 A. Yes.

1 Q. And when you're tracking -- actually, the
2 certificate you have here is called Man Tracking. I assume
3 you can also track women; right?

4 A. I'm assuming they just meant humans.

5 Q. Okay. That would be a better way to do it?

6 A. It doesn't sound so good on the T-shirt.

7 Q. Okay. But you didn't make up the name?

8 A. No.

9 Q. The course was called Man Tracking?

10 A. Yes.

11 Q. And there you were; right?

12 A. Yes.

13 Q. Okay. And you got your certificate.

14 But the idea is you're looking for somebody
15 that law enforcement wants to find; right?

16 A. Yes.

17 Q. Now, we have -- right now as we sit here, I don't
18 know how it's progressed today, but over the last couple of
19 days, there's been a lot of attention on a missing child over
20 in the Verde Valley. Are you familiar with that case?

21 A. Yes.

22 Q. Are you involved in that case?

23 A. No.

24 Q. Okay. But my understanding from just what I read
25 in the papers and see on television is that trackers are

1 looking for this little boy or were. I don't know whether
2 they found him or not, but they were looking for this little
3 boy using tracking techniques; right?

4 A. I haven't read the paper.

5 Q. Okay. Would that be your expectation though
6 that --

7 A. I imagine that they would have called out search
8 and rescue.

9 Q. Sure. And they have some tracking experience too?

10 A. I think that they do.

11 Q. Are there other trackers besides you and Commander
12 Mascher that work at the Sheriff's Office?

13 A. I think there are several people at the Sheriff's
14 Office that have tracked.

15 Q. Okay. And so that's one kind of search that you'd
16 be doing, to try to find a missing child? That would be very
17 important tracking work; right?

18 A. Yeah.

19 Q. Okay. And then other tracking work you might do
20 might involve a fugitive, somebody that's escaped from jail,
21 for example? That would be somebody that trackers might help
22 look for; right?

23 A. Possibly.

24 Q. Okay. But how about other kinds of fugitives,
25 people who are not escaped from jail, but let's say they were

1 involved in an incident and they got away from the police and
2 ran off into the woods? Trackers are sometimes called out to
3 try and find those people; right?

4 A. Yes.

5 Q. Okay. And the purpose of tracking though is to
6 find somebody? That's what you're really doing? You want to
7 find the person, whether they're a small child that's
8 wandered away or a person has escaped from jail? The goal of
9 the tracking is to find that person; right?

10 A. In the context that you're asking the question,
11 yes.

12 Q. Okay. Now, and so that involves the skills that
13 you've talked about that you develop about how to follow a
14 trail? Hopefully at the end of the trail will be the person
15 you're tracking; right?

16 A. In the context that you're asking the question,
17 yes, you hope you find the bad guy.

18 Q. All right. Okay. Now -- bad guy or a little
19 missing child; right?

20 A. Well, the last question you asked was a fugitive,
21 yeah, or a little kid.

22 Q. Okay. Whoever you're looking for?

23 A. Correct.

24 Q. All right. Could be a person with Alzheimer's
25 who's wandered away? That person might be --

1 A. Yes.

2 Q. -- tracked; right? Yes?

3 A. Yes.

4 Q. Okay. Now, in collecting evidence like this case,
5 can I assume that when you were out at the scene on July 3,
6 you were not doing your tracking looking for a person;
7 correct? You were not trying to find whoever killed Carol
8 Kennedy by doing this tracking; right?

9 A. I was just following a path.

10 Q. You weren't expecting to find a person at the end
11 of the path; right?

12 A. No, I was not.

13 Q. Okay. Would there have been a time though the
14 night before that it might have been possible to conduct some
15 kind of a search looking for the person or persons that
16 actually did this?

17 A. I'm sure it would have been possible. It would
18 have been more difficult because of the low lighting
19 conditions.

20 Q. Sure. If I told you that the first responder
21 Deputy Taintor got on scene about 8:46 or so, which could be
22 less than an hour after Carol was attacked, would it have
23 made sense in your opinion to try and put up some sort of a
24 perimeter around an area to see if you could actually find a
25 suspect or suspects in this case in that time frame?

1 A. What time did he arrive?

2 Q. Well, he arrived at about 8:46. I think that's
3 what the evidence is. And there's some reason to think that
4 Carol was talking on the phone to her mother shortly before
5 8:00 p.m. that night, so it's somewhere less than an hour.
6 It might be as little as 47, 48 minutes after the phone went
7 dead that Taintor arrived on the scene. Would it have made
8 some sense at that point to think about throwing up a
9 perimeter of some kind to see if whoever did this might still
10 be in the vicinity?

11 A. Well, not being the supervisor or being on scene,
12 that's their call.

13 Q. To you, if you had been on scene, is that something
14 you would have thought about?

15 A. I think the first thing I would have thought about
16 was getting some medical attention there and some backup.

17 Q. Okay. If you had been the first responder?

18 A. Yes.

19 Q. Okay. Now, having been out to this property and
20 seen that it borders thousands of acres of open land, would
21 you have thought it a good idea early on to consider a
22 broader search than the one that you were involved in that
23 Sunday of a relatively small area? Would it have made sense
24 to you to think about a way to do a broader search of all of
25 this open land looking for evidence?

1 A. No. I think eventually that would have to be done,
2 but if you feel that somebody went back to the area that
3 you're describing, you wouldn't want to disturb any evidence
4 back there, any potential evidence back there.

5 Q. Okay.

6 A. But you would want to secure the actual -- the near
7 inside perimeter, not meaning inside the house, but inside at
8 least the fence line. You would want to secure the property.

9 Q. The house?

10 A. Well, and probably the out -- the fencing to the
11 house, just the real property right there.

12 Q. Okay. That would be one place, but the person or
13 persons that did this could be crouched behind a bush
14 someplace out on the open land; right?

15 A. They could be.

16 Q. And the evidence that's never been recovered in
17 this case could somehow still be out there; right?

18 A. That could be anywhere.

19 Q. Yeah. Well, we'll talk a little bit about the
20 search that you were a part of.

21 Let's go back to preservation of evidence
22 though if we could for a moment. When you are tracking a
23 fugitive or a missing person, it is not as important, is it,
24 for you to be careful about preserving evidence as it would
25 be in a case like this? For example, when you're tracking a

1 fugitive, you wouldn't stop along the way to take photographs
2 of all the shoe prints that were tracked; correct?

3 A. You might because you want to -- want to make sure
4 you have something to compare to because if, for instance,
5 you come acrossed a different type or what you believe to be
6 a different type of shoe print, a barefoot, whatever, you'd
7 want to be able to compare it.

8 Q. Okay. Would you bother -- I understand that.
9 Would you bother to put out those little numbered evidence
10 placards that we see in other photographs? If you were
11 tracking a fugitive and you were trying to find a person that
12 escaped, would you stop to put evidence placards up and take
13 photographs of those?

14 A. Not actively searching a fugitive, no.

15 Q. Right. And would you stop to put down these
16 scales, the rulers that we saw in that one photograph 2521?
17 Would you stop to do that if you were tracking a fugitive?

18 A. Possibly. Again, for the same reason I just stated
19 before.

20 Q. Depends on how hot or cold the trail is? Would
21 that have something to do with how much time you take?

22 A. I think it's just -- it's the tracker's --
23 basically, it's the tracker's choice and you're going to have
24 to use it for comparison or you may have to use it for
25 comparison.

1 Q. Isn't it your goal really though in tracking a
2 fugitive to find the fugitive?

3 A. Yes.

4 Q. And that's really what you're trying to do;
5 correct?

6 A. Yes.

7 Q. But in this case, what you're really trying to do
8 is document for future use the trails that you were tracking
9 behind this property; right?

10 A. Yes.

11 Q. That's really what you were trying to do as opposed
12 to finding somebody or something; correct?

13 A. Correct.

14 Q. Now, going back to evidence techniques, have you
15 ever had any particular training in something called forensic
16 photography?

17 A. No.

18 Q. Do you even know what that is?

19 A. Sounds really fun. I...

20 Q. Can you put in for some training on forensic
21 photography?

22 A. I don't know with the budget.

23 Q. Okay. Let me explain. Let me tell you how I'm
24 using the term. What I am thinking of, Detective, is
25 photography that is done to preserve images of items of

1 evidence for use in a criminal prosecution like this one.
2 That's what I mean by forensic photography as opposed to
3 pictures of your summer vacation.

4 A. Yes.

5 Q. Okay. So you understand what we're talking about?

6 A. Yes.

7 Q. And you've not had any training at all in proper
8 techniques with forensic photography?

9 A. I've just had on-the-job training, so, no, I
10 haven't specifically attended any classes.

11 Q. Were you aware that the Arizona Department of
12 Public Safety published a very detailed set of guidelines
13 called protocols for the preservation of what's called
14 impression evidence? Were you aware of that?

15 A. No.

16 Q. Okay. Do you know what impression evidence is?

17 A. I'm assuming it's like when you get a bite
18 impression, you get dentures or something, the mold that they
19 make.

20 Q. Okay. If I told you that it includes shoe print
21 impressions, automobile and bicycle tire impressions,
22 anything where some object leaves an impression in some other
23 material like dirt, would you understand now what I'm
24 talking about when I say impression?

25 A. Yes.

1 Q. And you did some investigation of impression
2 evidence in this case; right?

3 A. I took pictures of shoe prints.

4 Q. And you tracked some shoe prints; correct?

5 A. Yes.

6 Q. Okay. Now, you understand from all of your years
7 not only as a patrol deputy, but all of the other years that
8 you've been a detective that when you're preserving evidence,
9 it's very important that the evidence be preserved first so
10 that law enforcement can make use of it; correct?

11 A. Sure.

12 Q. Okay. And the point is particularly something like
13 impression evidence that's going to likely disappear, there
14 has to be some way, doesn't there, to preserve that so that
15 your own people, including labs and other detectives and
16 possibly other experts, people can look at that and make some
17 scientific use of it; correct?

18 A. Yes.

19 Q. And it's somewhat easier when you've got an object
20 like that headcover, you just take the object and you handle
21 it carefully and you document it and it's there for everybody
22 to see; right?

23 A. Yes.

24 Q. Okay. But for things like tracks in the dirt, shoe
25 print impressions, bicycle tracks, there's some different

1 questions that are raised by preserving them; right? They're
2 different than just picking it up and putting it in a bag;
3 right?

4 A. Correct.

5 Q. And have you had any training in various techniques
6 of preserving shoe print evidence for future forensic use?

7 A. Other than taking photos?

8 Q. Correct.

9 A. Which, again, I have not seen or have not received
10 forensic training. No, I have not had any other training.

11 Q. Okay. Were you aware -- or are you aware that
12 there's a technique called casting that allows the use of
13 materials to make a three-dimensional cast of an impression
14 of the dirt?

15 A. Yes.

16 Q. Okay. On July 2nd and 3rd, 2008, to your
17 knowledge, did the Yavapai County Sheriff's Office have the
18 capacity to cast shoe prints?

19 A. I don't know.

20 Q. Who would have known that?

21 A. Probably somebody that worked in evidence.

22 Q. Okay. Have you ever seen a shoe print cast?

23 A. On TV.

24 Q. Okay. How about in real life?

25 A. No, I haven't.

1 Q. Okay. Do you know how the technique works
2 generally?

3 A. From what I've seen on TV, they pour some kind of
4 liquid that solidifies and then they retrieve the hardened
5 material.

6 Q. Okay. And then assuming that it's handled
7 carefully, that hardened cast is available for everyone to
8 use thereafter; right?

9 A. I would assume so.

10 Q. Okay. I assume that you are not here today to
11 testify as an expert on any sort of comparison of one shoe
12 print to another? You have no training in that area;
13 correct?

14 A. I do not.

15 Q. And you told us in December actually that you
16 didn't personally consider yourself an expert in tracking.

17 A. Correct. I was not qualified in court or have not
18 ever been qualified in court to my knowledge that I'm an
19 expert.

20 Q. So this is the first time?

21 A. But I still haven't been qualified in court to my
22 knowledge.

23 Q. Okay. If I told you that you have been, would that
24 be good news? You've been allowed to offer opinions here.

25 A. I would be surprised.

1 Q. Okay. You don't consider yourself an expert?

2 A. I think that I received probably more training than
3 most people, but I know that there's people that are --
4 probably have had more training, they hunt and do all kinds
5 of things that I don't do, so...

6 Q. So just like most of us, you know what you know and
7 you don't know what you don't know; right?

8 A. Yes.

9 Q. Okay. Now, back to methods of preserving shoe
10 print impression evidence. Do you remember what kind of a
11 camera you used on July 3, 2008 to take these pictures we've
12 seen?

13 A. The pictures that I took?

14 Q. Yes, ma'am.

15 A. They're a very small Sony, but I don't remember --

16 Q. A digital camera?

17 A. It's digital. I don't remember the model.

18 Q. Did it have any special equipment with it? For
19 example, did it have a tripod?

20 A. No.

21 Q. Did it have any special flash other than a built-in
22 flash?

23 A. No.

24 Q. Did it have any special lenses that went with it?

25 A. Other than the zoom that comes with it, no.

1 Q. It's just a point and shoot camera?

2 A. Yes. I think it has a macro lens, but it came with
3 the camera.

4 Q. Did you use the macro lens --

5 A. No.

6 Q. -- to take any of these pictures?

7 A. No.

8 Q. Okay. So basically this is an automatic, small
9 personal digital camera; right?

10 A. Yes.

11 Q. And you just kind of point it, it focuses
12 automatically?

13 A. Sometimes if you hold the button down, it will try
14 and focus for you better, but basically it does it on its
15 own.

16 Q. Did you hold the button down and try to improve the
17 focus on any of the photos that you've taken?

18 A. No.

19 Q. Okay. So you pointed it and clicked, and did the
20 lens zoom in at all while you were taking these pictures?

21 A. I probably zoomed it in because I was bending over
22 to take a picture of a specific item.

23 Q. Now, if I told you that -- that there are
24 particular techniques that are recommended by the Arizona
25 Department of Public Safety, would that make sense to you,

1 techniques in terms of photographing impression evidence?

2 A. Sure.

3 Q. Okay. For example, you know that in the Sheriff's
4 Department, your evidence technicians want you to collect
5 evidence in a particular way for them; right?

6 A. Yes.

7 Q. And you know that they would be upset if you walked
8 in and reached into your pocket and took out a piece of
9 evidence and handed it to them?

10 A. Yes.

11 Q. You would hear about it from them; right?

12 A. Yes.

13 Q. Okay. So they had their own standards for the
14 collection of evidence for their purposes; right?

15 A. Yes.

16 Q. Well, would it make sense that the crime lab, the
17 Department of Public Safety Crime Lab, the Northern Arizona
18 lab in Flagstaff and the main lab in Phoenix would have
19 pretty detailed guidelines for local law enforcement as to
20 how they want evidence handled and preserved?

21 A. I don't know what they pass out.

22 Q. Well, you know that -- that the Sheriff's Office
23 uses the DPS Crime Lab on a regular basis --

24 A. Yes.

25 Q. -- to examine and analyze all kinds of evidence;

1 right?

2 A. Correct.

3 Q. And that could be blood evidence; right?

4 A. Yes.

5 Q. It could be DNA evidence?

6 A. Yes.

7 Q. It can be fingerprints; correct?

8 A. Yes.

9 Q. It could be items of physical evidence, bicycles,
10 golf clubs, headcovers. They can examine any number of
11 things; right?

12 A. Correct.

13 Q. They also do impression evidence analysis. Did you
14 know that?

15 A. I did not know that.

16 Q. Is this the first case you've ever had in which you
17 know that the lab tried to analyze, the lab being the DPS
18 lab, tried to analyze impression evidence?

19 A. Yes.

20 MR. SEARS: Your Honor, this might be a good
21 time if you're inclined to take a break.

22 THE COURT: Thank you, Mr. Sears.

23 Detective, you can step down.

24 Ladies and gentlemen, we will go ahead and
25 take the afternoon recess. Please remember the admonition

1 and please be back hour and 15 minutes, a little after 1:15,
2 and we'll get started there. And thank you. We are in
3 recess.

4 (Recess from 12:01 p.m. to 1:19 p.m.)

5 ---oOo---

6 (Proceedings were held in the absence of the
7 jury.)

8 ---oOo---

9 THE COURT: Thank you. Please be seated.

10 The record will show the presence of the
11 defendant, the attorneys, and the jury.

12 The witness has resumed the witness stand, and
13 you're still under oath of course.

14 Mr. Sears, you may continue your cross.

15 BY MR. SEARS:

16 Q. Thank you. Good afternoon, Detective.

17 A. Hello.

18 Q. Let's go back if we could and talk some more about
19 preservation of evidence at crime scenes and the consequences
20 of -- of how that works. I'm sure you can imagine that the
21 criminalists, the people that work at the crime lab, have in
22 their mind the way in which they want evidence collected and
23 preserved and presented to them for identification. You
24 understand that's likely; right?

25 A. Yes.

1 Q. Just like you have expectations when you do work
2 about how you want things done; correct?

3 A. Yes.

4 Q. Okay. And if I understand what you said here
5 earlier today, you don't -- this is the first case you've had
6 any involvement in in which evidence of shoe print
7 impressions that you photographed was actually sent to a
8 crime lab? Is that what you said this morning?

9 A. I don't know if my -- I think you asked me about
10 plaster testing maybe.

11 Q. Well, let me ask the question again so at least we
12 can be clear. You took some photographs in this case. Do
13 you know whether or not any of the photographs that you took
14 of the impressions on the ground were ever sent to any lab or
15 expert for analysis?

16 A. I do not know.

17 Q. Okay. Let's think if we could together about the
18 consequences of the work that you do in preserving evidence
19 with a camera. If it turns out, for example, that because
20 you have no training or experience in forensic photography
21 that photographs that you take are found to be unsuitable by
22 a criminalist because they were not taken with proper
23 forensic steps, what would you think the consequences then
24 would be if that's what happened?

25 MR. BUTNER: Objection. Speculation and calls

1 for a legal conclusion.

2 THE COURT: Sustained.

3 BY MR. SEARS:

4 Q. Okay. I'm not asking, Detective, in terms of a
5 legal conclusion. But I'm just trying to see if you can --
6 if you can foresee the problems that would happen. If you
7 sent a photograph to a criminalist and they could not use it
8 because it was taken improperly, that would be a problem;
9 correct?

10 A. Most likely.

11 Q. Just a problem?

12 A. Most likely.

13 Q. Okay. And that problem could -- could go like
14 this. It would make it perhaps impossible for the
15 criminalist to do his or her examination just because of the
16 quality or the lack of quality in a photograph? That could
17 happen; right?

18 A. Sure.

19 Q. Okay. And then you know that in criminal cases,
20 evidence is required to be turned over to the defense during
21 the pretrial process called discovery; right?

22 A. Yes.

23 Q. And that among the things that are turned over are
24 items of physical evidence that would also include
25 photographs? Those things have to be turned over to the

1 defense in a criminal case; right?

2 A. I would assume so.

3 Q. Okay. And wouldn't you assume that if the State's
4 experts, if the prosecution experts and criminalist could not
5 perform their work because of the quality or lack of quality
6 that the defense would have the same problem?

7 A. Are you asking me a question or telling me?

8 Q. I'm asking you a question.

9 A. Oh. Most likely.

10 Q. Okay. And can you see that ultimately in a
11 criminal case if neither the State's experts nor the
12 defense's expert or investigators can use a piece of evidence
13 that that piece of evidence then becomes itself a problem?
14 Do you see that?

15 A. Okay.

16 Q. Okay. Do you agree?

17 A. Sure.

18 Q. Okay. Now, in your case, let's talk -- you took a
19 total of 12 photographs if I understand it of shoe print
20 impressions, some of track one and some of track two;
21 correct?

22 A. Yes.

23 Q. And you told us yesterday that you were not trying
24 to photograph every impression you saw on the ground;
25 correct?

1 A. I wasn't here yesterday.

2 Q. I'm sorry, last week. It just feels like
3 yesterday.

4 A. No, I didn't take one of every shoe print.

5 Q. Okay. And you couldn't tell us how many shoe
6 prints, for example -- shoe print impressions that you saw
7 between any two waypoints? You didn't bother to count them;
8 right?

9 A. No.

10 Q. And they weren't numbered in any way by you;
11 correct?

12 A. No.

13 Q. Okay. So the only pictures that you took were
14 these 12 of shoe print impressions; correct?

15 A. Yes.

16 Q. And the thirteenth one was the picture of that
17 piece of rebar; correct?

18 A. Yes.

19 Q. And we've seen some of the pictures that you took.
20 Mr. Butner's played some of those through the ELMO on the
21 screen here today; correct?

22 A. Yes.

23 Q. Now, on this map --

24 MR. SEARS: And, your Honor, I'll hold this --
25 I looked at this.

1 BY MR. SEARS:

2 Q. This map that we've -- that you've created here
3 that has yellow crosses and green dots and red crosses on it,
4 if I understand what you're saying, this is not intended to
5 be a map showing every footprint impression that you saw on
6 July 3, 2008; correct?

7 A. Yes.

8 Q. It is not intended to be?

9 A. It is not intended to be that.

10 Q. Okay. And you do not have photographs of something
11 on the ground that is represented by one of these marks;
12 right? There's not a photograph that corresponds with every
13 one of these green crosses or yellow crosses; correct?

14 A. Not every one.

15 Q. Just the 12 that we talked about; right?

16 A. Yes.

17 Q. And there are how many waypoints shown on this map
18 altogether considering all the tracks?

19 A. There are about a hundred.

20 Q. Okay. And 12 of them were photographed?

21 A. Yes.

22 Q. Okay. And you're not saying, are you, that each of
23 these crosses or circles or squares on here itself represents
24 a shoe print or a piece of tire track that you saw; right?
25 That's not what these represent; correct?

1 A. Where I took the GPS reading, there would be a shoe
2 print there.

3 Q. Every one?

4 A. That's on that map. Not every shoe print, but
5 every --

6 Q. So every one of these is related to a shoe print?

7 A. Yes.

8 Q. Okay. And so out of the total number of shoe
9 prints, you have recorded location of approximately a
10 hundred?

11 A. Give or take.

12 Q. Okay. But you can't tell us at all how many there
13 were total --

14 A. Correct.

15 Q. -- in addition to these hundred?

16 A. Correct.

17 Q. Okay. You have absolutely no way of estimating; is
18 that right?

19 A. I couldn't give you a good estimate, so that is
20 correct.

21 Q. Okay. And you didn't have any particular
22 methodology in terms of locating every third shoe print or
23 every fifth shoe print, did you?

24 A. No.

25 Q. You just sort of randomly hit your GPS periodically

1 to show a track; correct?

2 A. A track or a trail of the shoe print that I was
3 following.

4 Q. Okay. Now, we have talked about -- we haven't yet
5 seen pictures. I think we're going to here in a minute --
6 about the use of something called evidence tents or evidence
7 cards. They're something with a number on them, a little
8 card-shaped thing that is put on the ground. Do you know
9 what I'm talking about?

10 A. Yes.

11 Q. What do you call them?

12 A. I think we -- if we're talking about the same
13 thing, they are flat up and down. They're called tents.

14 Q. Okay.

15 A. That's what we call them at the Sheriff's Office.

16 Q. A tent. And they have numbers on them; right?

17 A. Yes.

18 Q. And the idea is I think if -- if those of us that
19 watch television, we'll see those at crime scenes and they'll
20 be put on the ground to mark items of interest or items of
21 potential evidence; right?

22 A. Yes.

23 Q. And then typically photographs are taken; correct?

24 A. Yes.

25 Q. Okay. Now, did you place any tents anywhere at

1 this location on July 3rd, 2008 yourself?

2 A. No.

3 Q. Okay. Did you have anyone else place any tents for
4 you on any of the 12 photographs that you took?

5 A. I did not instruct anybody to put any tents down,
6 no.

7 Q. Did anybody put any tents down near any of the 12
8 photographs that you took?

9 A. Near the -- they did put tents down. I don't
10 know -- without seeing their photos, I couldn't tell you --
11 well, I don't know if they put them down where I took my
12 photos. I can't tell you that. I don't know.

13 Q. Do you have your photographs with you?

14 A. Yes.

15 Q. Could you take a moment and look through your
16 photographs, excluding your photograph -- I don't know what
17 your number is, but it's evidence item 2522 which was not
18 admitted, but the other photographs and tell me in any of
19 those if you see a tent.

20 A. In the photos that I took, you're asking me to see
21 if I see a tent?

22 Q. Yes. These are the photographs that you took.

23 A. I don't. I don't see any tents in there.

24 Q. Okay. And there also -- we've looked at one
25 photograph that's in evidence, and I'm going to put it up

1 here for you. I believe this is 2587 -- 2487, excuse me, in
2 evidence. We'll get back to this. This is not 2487,
3 Detective. We had the laptop part up here. Thank you.

4 Okay. This is the photograph that you
5 described as looking from the open land into the backyard of
6 the house at Bridle Path; correct?

7 A. Looks like it, yes.

8 Q. Okay. Now, I see on this photograph I think you
9 described them as flags; correct?

10 A. Yes.

11 Q. And it looks like there's three. There's one that
12 you said had been knocked over on the ground nearest to the
13 fence in the foreground of this picture and then two other
14 ones marching towards the back of the house at Bridle Path;
15 correct?

16 A. Yes.

17 Q. Okay. Did you use flags to mark shoe print
18 impressions anyplace else other than these three locations
19 actually on the Bridle Path property?

20 A. On the Bridle Path property, no.

21 Q. Did you go anyplace -- did you use those flags --
22 when I say those flags, flags similar to those elsewhere on
23 track number two?

24 A. Yes.

25 Q. Okay. How many of those did you place?

1 A. I don't know. I didn't count them.

2 Q. Okay. Are there actually three questioned
3 impressions in the ground that correspond to each of those
4 flags?

5 A. I believe so.

6 Q. Okay. You told us that you had identified two
7 impressions as waypoint 73 and 74; is that right?

8 A. Yes.

9 Q. Which of those three flags is 73?

10 A. I believe it's the one that's in the middle.

11 Q. Okay. And where is 74?

12 A. I believe that's the one further out or further
13 towards the house.

14 Q. Okay. Did you take a picture of what was on the
15 ground under the flag that's nearest to the camera in this
16 picture?

17 A. No.

18 Q. Okay. Does it have a waypoint?

19 A. I -- can I look at the other map?

20 Q. Pardon?

21 A. Can I look at the other map or --

22 Q. Sure.

23 A. -- whatever you're calling it?

24 Q. So if we're calling it the same thing, this is

25 Exhibit 2647.

1 A. No, it doesn't have a waypoint --

2 Q. Okay.

3 A. -- by that.

4 Q. Okay. So you marked two waypoints where you saw

5 three impressions; is that right?

6 A. I only saw two impressions inside the fence.

7 Q. Okay. Maybe I misunderstood you. I thought you

8 said there was an impression underneath each one of those

9 three flags.

10 A. But you're asking me what I saw. I only saw two.

11 Q. Okay. Well, who put the third flag up there?

12 A. I believe it was Commander Mascher.

13 Q. Okay. All right. So you saw two; maybe he saw a

14 third one?

15 A. Possibly.

16 Q. Do you know why that third flag is there?

17 A. I would guess because what we're using them for was

18 to mark the track, that that's what it's on.

19 Q. Okay. Okay.

20 A. Or under or representing.

21 Q. How far from the fence is the middle flag?

22 A. I would say within 10 feet.

23 Q. Okay. And how far from the middle flag is the

24 farthest flag?

25 A. I don't know.

1 Q. Okay. And at what time of the day do you think you
2 put those flags down to identify those two possible
3 impressions?

4 A. Around noonish time.

5 Q. All right. How many police -- different police
6 officers had been walking in that area between 8:46 the night
7 before on June -- on July 2nd and noon on July 3?

8 A. I could only tell you of one.

9 Q. You?

10 A. No.

11 Q. Someone else?

12 A. Somebody other than me. Then two.

13 Q. Okay.

14 A. Sergeant Huante.

15 Q. Okay. Do you know if any other police officers
16 walked in that area?

17 A. I don't know.

18 Q. How about County Attorney investigators?

19 A. I don't know.

20 Q. How about VIPs?

21 A. I don't know.

22 Q. Okay. There were VIPs posted during the night at
23 this area to secure it while the search warrant was being
24 written. Is that your understanding?

25 A. I -- I know when I got there in the morning there

1 was a VIP there. I don't know what time they got there.

2 Q. Okay. Who else may have been -- between the time
3 the body was discovered and the time you located these flags,
4 anybody else that you can think of that would have been
5 walking in this general area where these flags were located?

6 A. The only other person that I saw back there as I
7 said was Sergeant Huante.

8 Q. And there just -- you saw just two impressions;
9 correct?

10 A. I saw two.

11 Q. Did you photograph either one of them?

12 A. No.

13 Q. Okay. Did you think somebody else was going to
14 photograph them?

15 A. Yes.

16 Q. Okay. And is that why you stopped taking
17 photographs at waypoint 36 I believe it was?

18 A. No. I was taking those photographs for comparative
19 purposes, and so when I believed I was following the same
20 consecutive path, I quit taking photos.

21 Q. Okay. So all of these down at the bottom of 2647
22 down in this corner down here where there's this cluster of
23 yellow crosses, none of -- none of the impressions
24 represented by those crosses was photographed by you;
25 correct?

1 A. Correct.

2 Q. And, in fact, you stopped as you said somewhere up
3 midstream here?

4 A. Right there.

5 Q. About here?

6 A. Yes.

7 Q. Okay. And after that, you took no more photographs
8 of any of these other impressions; is that --

9 A. Just up there at the Glenshandra Trailhead.

10 Q. And that's -- that's 2522 that's not been admitted;
11 correct?

12 A. I don't know.

13 Q. Okay.

14 A. I don't know what the number is.

15 Q. Okay.

16 MR. BUTNER: Just for the record, could we
17 have that exhibit number referenced, Mr. Sears, please?

18 MR. SEARS: Again, I believe this is also
19 2647.

20 MR. BUTNER: Thank you.

21 BY MR. SEARS:

22 Q. Now, my understanding is that when you -- when you
23 came back the next time, it was Sunday July 6; is that right?

24 A. As far as anything related to this case?

25 Q. Yes.

1 A. I was there July 6th. I don't know if it was on
2 a Sunday.

3 Q. Okay. You were at the scene on Thursday July 3rd
4 doing this work, this working being the tracking work
5 primarily; correct?

6 A. I was there July 3rd, yes.

7 Q. I'm sorry?

8 A. I was there on July 3rd.

9 Q. Yes. And then you were not at Bridle Path again
10 until July 6; is that right?

11 A. Yes.

12 Q. If July 4th was a Friday, July 5th was a Saturday,
13 July 6th would then be Sunday; correct?

14 A. Yes.

15 Q. All right. And you came out Sunday to do what?

16 A. To assist with the evidence search.

17 Q. Okay. This was the back country search that was
18 going to be conducted early in the morning on Sunday the 6th?

19 A. Yes.

20 Q. Okay. I believe you have said that you looked or
21 at least tried to look for these shoe print impressions when
22 you came back that Sunday, but they were essentially
23 obliterated by then; correct?

24 A. I said that I was back there because I thought I
25 lost a piece of equipment back there and I noticed that the

1 shoe prints were obliterated, yes.

2 Q. Okay. And you attributed that to possible rain
3 over that several day period between the 3rd and the 6th; is
4 that right?

5 A. Yes.

6 Q. And, in fact, you've told several people, including
7 us, a nice story about being caught in a monsoon thunderstorm
8 that Sunday; right?

9 A. Yes.

10 Q. And having to run for it?

11 A. Yes.

12 Q. Okay. And you also thought that perhaps cattle had
13 been in the area and it also contributed to destroying these
14 footprints; right?

15 A. Yes.

16 Q. Okay. So that's just a matter of a few days.
17 That's just in three days, the evidence that you were seeing
18 and photographing was gone; correct?

19 A. Yes.

20 Q. Okay. So that would be a good illustration of how
21 transitory in nature shoe print impressions in the dirt can
22 be in Arizona in the summertime; right?

23 A. Yes.

24 Q. Now, sometimes shoe print impressions may stay a
25 very long time; correct?

1 A. Yes.

2 Q. And I assume you have no training or expertise in
3 aging or attempting to determine the age of shoe print
4 impressions on the ground?

5 A. Basically.

6 Q. I mean, you may have some common sense
7 observations, but you don't have any specialized training in
8 saying that print is more than three weeks old or less than
9 two hours old?

10 A. Oh, definitely, yes.

11 Q. You don't have that kind of training?

12 A. No.

13 Q. Okay. But you were able to see with your own eyes
14 that by virtue of a contignation of weather and apparently
15 maybe some roaming cattle what you had been looking at was
16 gone?

17 A. Yes.

18 Q. Okay. How about the bicycle tracks? Did you go up
19 and look at the bicycle tracks on Sunday July 6th?

20 A. No.

21 Q. Okay. You didn't go that far?

22 A. We were that far. We started in that area, but
23 there were no discernible bicycle tracks either.

24 Q. So they were gone?

25 A. Correct.

1 Q. Okay. Now, let's go back if we could and talk
2 about -- I think now would be a good time to look at the
3 laptop. Let's talk about your work if we could, please,
4 Detective, in tracking track number one, okay.

5 Now, first -- the first question, what we have
6 here on the screen is a portion of an Exhibit Number 2215 --
7 2215, your Honor -- which is already in evidence and this
8 is -- as we've said before, this is a larger aerial photo and
9 we're just looking at a part of it here on the laptop. Do
10 you recognize, Detective, this location with the end of
11 Glenshandra and the gate into the open land up in the upper
12 left-hand corner?

13 A. Yes.

14 Q. And can you see Carol Kennedy's house and
15 guesthouse in that photo?

16 A. I believe so.

17 Q. Would it be easier if you stepped down?

18 A. No. I just am --

19 Q. Okay. You've got the laser pointer, so why don't
20 you use the laser pointer and show us Carol Kennedy's house.

21 A. I believe it's here.

22 Q. Okay. When you came on Sunday July 6th to do
23 your search work, can you tell us where you assembled?

24 A. We stopped out in this area here with the search
25 and rescue team.

1 Q. Okay.

2 A. And with Detective Surak.

3 Q. Okay. And tell me was Lieutenant -- was Sergeant
4 Huante there?

5 A. He wasn't here. I believe he was over here.

6 Q. Okay. Do you think there were other people still
7 working at the house?

8 A. I think it's possible.

9 Q. Okay. So it was Detective Surak and you and some
10 back country search and rescue people. Tell me about that
11 group. What do you know about them?

12 A. I know that they go out and they specialize in
13 searching for missing people generally, but they will go out
14 and help us with evidence searches.

15 Q. Okay. They're volunteers?

16 A. Yes.

17 Q. They're not sworn police officers like you?

18 A. Not that I know of.

19 Q. Okay. And have you worked with them before?

20 A. A couple of times.

21 Q. Okay. Do you remember how many were there on
22 July 6th?

23 A. I would say at a minimum six.

24 Q. Okay. And were you and Detective Surak sort of in
25 charge of organizing them and developing a plan for this

1 search?

2 A. I think it was more Detective Surak than myself.

3 Q. Okay. What did happen then?

4 A. We assembled here and then we crossed over here and
5 what they -- I don't even know what kind of search they
6 called it, but they -- or we ended up moving forward in this
7 direction all --

8 Q. Okay. This direction you're showing from the
9 Glenshandra gate more or less easterly; correct?

10 A. Yes.

11 Q. Okay.

12 A. And how they did this -- or how we did this is that
13 we all -- I think it's called abreast when we're shoulder to
14 shoulder basically within however many feet of each other and
15 would walk out however far the distance was and they would
16 pivot on the end person and then turn around and come back.

17 Q. Okay. Is this sometimes called a line search?

18 A. Sometimes.

19 Q. Okay. Was this a line search?

20 A. That's what I would call it.

21 Q. Okay. So let me understand how you do this.

22 You've got you and Detective Surak and perhaps six other
23 people, so the eight of you go through the gate and then you
24 line up?

25 A. Yes.

1 Q. Okay. How far apart roughly?

2 A. Probably within about four feet of each other.

3 Q. Okay. And so at that point, which way is the line
4 facing?

5 A. It's facing east.

6 Q. Okay. So you were in a single file line one behind
7 the other?

8 A. No. Like -- like they're lined up. Like they're
9 all facing east.

10 Q. Like the jury?

11 A. Yes.

12 Q. Okay. So there are the eight of you in a line
13 maybe four feet across so that would be somewhere between 30
14 and 40 feet from the person on each end; right?

15 A. Possibly.

16 Q. Okay. All right. And so you're facing eastbound
17 and which way -- and so you're going to walk in a straight
18 line then?

19 A. As straight as you can depending on what's in
20 between you and what you are trying to get to.

21 Q. But the idea is to proceed in a straight line and
22 keep the line straight as you move ahead?

23 A. Yes.

24 Q. Okay. And which way did you all walk then?

25 A. East.

1 Q. Okay. So you were lined up eight abreast and you
2 started at about the -- at about where the gate is; is that
3 right?

4 A. Yes, on the east side of the fence line.

5 Q. Okay. And you started walking east looking down as
6 you started to walk; is that right?

7 A. Yes.

8 Q. Can you tell me if you remember the person that was
9 furthest north? Let's assume that this is north/south, okay.
10 Where was the person at the north end of this eight person
11 line? Where did they start?

12 A. I think they started over here.

13 Q. Okay. A little bit north of the gate?

14 A. I think so.

15 Q. Okay. And you walked -- how far out did you walk?

16 A. They walked at least up to here as best as I can
17 recall.

18 Q. Okay. And you're showing what happens to be
19 actually probably in the neighborhood of the intersection of
20 waypoint 6 and 30 on the two tracks? Is that kind of in the
21 general area?

22 A. 6 and 30?

23 Q. We're going to pan up here a little bit. Okay.
24 There's a trail -- let's see if we can -- and the reason I'm
25 trying to do this in words, Detective, is that we're trying

1 to make a record of what happens and somebody reading the
2 story of this is going to have a hard time knowing what we're
3 talking about when you say over here and this way, so I'm
4 going to try and help paint the story with words.

5 There's a trail that we can see in this
6 photograph that starts -- a dirt trail that starts on the
7 east side of the gate of Glenshandra. Can you see that?

8 A. Yes.

9 Q. Okay. And it heads north and east for a distance;
10 right?

11 A. Yes.

12 Q. And then it intersects another trail that takes out
13 off and goes south and then bends a little bit west; correct?

14 A. Yes.

15 Q. And that trail that goes south and a little bit
16 west eventually finds its way back to the north corner of the
17 Carol Kennedy property; right?

18 A. I -- if that's the corner of her property, yes.

19 Q. It is. Okay. Now, so you think that you walked
20 out -- this eight person line walked out east until you got
21 to the trail that runs south and west more or less; is that
22 right?

23 A. More or less.

24 Q. Okay. How far would you estimate that that point
25 is from the starting point by the fence?

1 A. I would say it's about a little over a tenth of a
2 mile.

3 Q. Okay. So 175 yards, something like that?

4 A. Possibly. But without actually being able to
5 measure that, I can't tell you.

6 Q. Okay.

7 A. That would just be my best guess.

8 Q. More than the length of a football field?

9 A. I believe so.

10 Q. Okay. But maybe close to two football fields?

11 A. Possibly.

12 Q. Okay. Do you know who selected the stopping point?

13 A. I don't.

14 Q. Okay. But somebody said stop?

15 A. I don't know. I -- I believe there was a
16 discussion as to where certain things began and end, and I
17 think that's what made the determination of how far out to
18 go.

19 Q. Okay. So you or Surak had some input into how far
20 east that search was going to go; correct?

21 A. I don't know who it was. I don't think it was me.

22 Q. Okay. And then if I understand what you're saying
23 then is, do -- who was at the southern point? Was it you?

24 A. I have no idea.

25 Q. Do you remember where you were in the line?

1 A. I don't.

2 Q. Okay. But at some point, the line stopped, the
3 person at the southern end stood stationary, and the line
4 swung around?

5 A. Yes.

6 Q. Is that how it goes?

7 A. Yes. And if I recall, whoever's on whichever end
8 of that pivot --

9 Q. Yep.

10 A. -- if I recall correctly, I thought they were
11 dragging the line so you would know where the edge of the
12 last -- the last line you went down was, so I believe they
13 were dragging a stick or something so you would know where
14 the edge of it was when you turned and came back.

15 Q. Okay. And so at some point then, the eight of you
16 are reassembled in a line, but now you're facing west?

17 A. Yes.

18 Q. And you walk back to the fence that way?

19 A. Yes.

20 Q. Okay. How many times do you remember making this
21 pivot? You just described more. How many more do you think
22 you did?

23 A. I don't know.

24 Q. Do you know how far south you got? We're going to
25 go down here a little bit. There's --

1 A. I think they went into the area right in here.

2 Q. And you're showing an area east of the border fence
3 and a little bit south of the Carol Kennedy property?

4 A. Yes.

5 Q. So that's about as far as you went. And so then
6 there would have been basically this rectangle created which
7 would have been 175 yards plus the radius of the sweep every
8 time you did it and then whatever the distance is from north
9 to south? That's the size of the area searched; right?

10 A. The search when I was there, yes.

11 Q. When you were there. Okay.

12 How long did it take to do that search?

13 A. You know, I don't know because once we completed
14 that, we reassembled up at the Glenshandra Trailhead and we
15 did a line search down Glenshandra on both sides of the road
16 and then out to the Williamson Valley Trailhead.

17 Q. Okay. Let's just stick to the -- let's go back and
18 just stick to the search of the open land though. You have
19 no sense of how long that took? I mean, was it a few
20 minutes? Did it take an hour?

21 A. I know it took more than an hour.

22 Q. More than an hour. Okay.

23 And my understanding is that only two things
24 of interest were found by any of you during the line search
25 of the open land; right?

1 A. Yes.

2 Q. There was a piece of rebar we saw; right?

3 A. Yes.

4 Q. Which turned out to have apparently nothing to do
5 with this case? Is that your understanding?

6 A. I don't know what the outcome of that was.

7 Q. It was seized, and you never heard about it again?

8 A. Not until we started talking about it.

9 Q. Okay. And you know though, don't you, from working
10 in the Sheriff's Office that as we sit here today on
11 July 27th, nothing that the Sheriff's Office thinks is a
12 murder weapon in this case has ever been recovered? You know
13 that; right?

14 A. Yes, I know that.

15 Q. Okay. So chances are that piece of rebar was not a
16 murder weapon; right?

17 A. Possibly.

18 Q. You likely would have heard about it if it was?

19 A. Yes.

20 Q. Okay. And then a piece of paper was found. Do you
21 know where the piece of paper was found?

22 A. It was in the same general area where the rebar
23 was.

24 Q. Okay. Can I -- did you have your GPS unit with you
25 on Sunday July 6th?

1 A. I don't think so.

2 Q. Do you know if Surak did?

3 A. I believe he did.

4 Q. Okay. Did he take GPS coordinates where either the
5 rebar or the paper were found to your knowledge?

6 A. I would have to speculate that he did, but I
7 didn't.

8 Q. Okay. You would think it was important if you're
9 looking for a possible murder weapon and you find a piece of
10 rebar, don't you think it would be a very important document
11 where on the ground you found that piece of rebar?

12 A. Yes.

13 Q. Okay. That photograph doesn't give you much
14 guidance; right?

15 A. Right.

16 Q. Just a photograph of a piece of rebar on the
17 ground; correct?

18 A. Right.

19 Q. Can you tell me from your recollection where the
20 rebar was found looking at this aerial photo?

21 A. If I remember correctly, it was just somewhere in
22 this area.

23 Q. Okay. And you're showing an area east of the
24 boundary fence and generally south of the gate at
25 Glenshandra; correct?

1 A. Yes.

2 Q. Okay. But somewhere in that area near the fence?

3 A. Well, nearer to this fence. There's a fence out
4 there, but probably nearer the fence than not.

5 Q. Okay. And where was the piece of paper found then?

6 A. Somewhere in that same general area as far as I
7 know.

8 Q. Okay. Did you look at the piece of paper?

9 A. I don't remember looking at it. I remember it
10 being -- being told that it was from an auto body or I think
11 it was related to auto body work.

12 Q. Okay. So you don't know what became of that or how
13 that was investigated?

14 A. I think it was taken into evidence, but I don't
15 know what happened after that, no.

16 Q. And the piece of rebar was likely taken for
17 evidence too; right?

18 A. Yes.

19 Q. Okay. And you don't know what happened with regard
20 to the investigation of the paper; right?

21 A. No, I don't.

22 Q. Okay. Anything else of any interest found?

23 A. Not that I knew of.

24 Q. Okay. Now, we've looked at -- Rich, if you could
25 pull east some here. The other way, the other east. Thanks.

1 Well, that's right. That's a bad word. If we could just pan
2 over to the east. Just keep going a little bit further and
3 then go north a little bit.

4 Okay. You can see, can't you, Detective, that
5 this is a very large open area that has a number of visible
6 trails even in this aerial photograph; correct?

7 A. Yep.

8 Q. Okay. Would it be fair to say that of all of the
9 law enforcement personnel who was out on this open land on
10 July -- between July 3 and July 8, you went further into that
11 open land than anybody else?

12 A. I can only tell you where I went. I can't tell you
13 where anybody else went.

14 Q. Okay. Did you see any other police officers out
15 anywhere near the white gate that you said you followed track
16 one to?

17 A. Not on July 3rd or July 6th.

18 Q. Or July 6 or any other day that you were there?

19 A. Not any other day that I was there.

20 Q. Okay. And did you hear from any other officer that
21 they went out anywhere near as far out on the State land as
22 you did?

23 A. Not in this direction.

24 Q. Okay. Go back.

25 Let's talk about -- if we could go down --

1 take a second to catch its breath here. Okay. If you could
2 get out just a little bit further down there.

3 Okay. We can see Carol Kennedy's house again,
4 can't we?

5 A. Yes.

6 Q. Okay. Let me show you -- we can't switch between
7 them. Yeah, let me show you 2594. Okay. Do you recognize
8 that as a photo taken from the Bridle Path property looking
9 out into the open land?

10 A. I didn't take that photo.

11 Q. Okay. Do you recognize it as a photo taken from
12 the Bridle Path property looking out into the open land?

13 A. I think it could be.

14 Q. Okay. Do you see the wooden-slatted opening in the
15 barbed wire fence in the center of this photo?

16 A. Yes.

17 Q. And you've talked about that before with
18 Mr. Butner, haven't you?

19 A. Yes.

20 Q. Okay. And your understanding is that was put in so
21 the person could climb over the barbed wire fence without
22 actually having to climb over the wire itself; correct?

23 A. I don't know why it was put in.

24 Q. Can you guess? I mean, does that look like that's
25 what that's for?

1 A. Well, I could step over it, you know, so -- but my
2 ideas of landscaping are different than other people's, so...

3 Q. I understand.

4 A. I called it a -- a -- I think I called it like a
5 walk-over or whatever because it's easier to step over that
6 than barbed wire.

7 Q. Is it possible then in your imagination that that's
8 what that wooden-slatted thing is for is for people to be
9 able to go over the fence easily?

10 A. That was what I thought it was.

11 Q. Okay. Now, my understanding is you said that you
12 saw shoe prints that were the beginning of track number one
13 just on the open land side of that step-over; correct?

14 A. Yes.

15 Q. Okay. And you're saying you didn't see any similar
16 shoe prints, any shoe prints that you associated with track
17 one anywhere on the Carol Kennedy owned piece on this side of
18 that step-over? Is that what you're saying?

19 A. I did not see.

20 Q. Not a one?

21 A. No.

22 Q. Not a single one?

23 A. No.

24 Q. Okay. And your explanation for that was that this
25 soil was not suitable for leaving shoe print impressions? Is

1 that what you're saying?

2 A. I didn't see any definite shoe print over there,
3 and there were leaves and things like that, but I didn't see
4 any shoe prints over there.

5 Q. Okay. And -- but you saw a pretty continuous lack
6 of shoe prints that somehow began on this side, on the far
7 side of that step-over; is that right?

8 A. Yes.

9 Q. Okay. And that's where you first began to track?

10 A. Yes.

11 Q. And you really weren't sure as you began to track
12 how this was connected, if any -- if at all to this
13 investigation? It's just something you were tracking; right?

14 A. Correct. I was told that she ran in that area and
15 the first track that I saw that had any definition to it to
16 my eye was on the other side of that wooden fence and then I
17 tracked it on the other side.

18 Q. Okay.

19 A. But I didn't see it on the inside.

20 Q. Do you have an estimate how far that wooden
21 step-over is from the nearest part of the house itself?

22 A. I don't know. Let's see. Probably two or three
23 times the length of this room.

24 Q. Okay. Can you give an estimate in feet?

25 A. About 75 feet.

1 Q. So you think it might be -- and you understand that
2 the house on this side has a concrete walk that goes all the
3 way around the back side of the house?

4 A. Yes.

5 Q. Okay. And you don't know what door Carol Kennedy
6 would have come out of to start her evening run, do you?

7 A. No.

8 Q. Okay. So the nearest point though would be maybe
9 75 feet from the concrete to that wooden step-over? Is that
10 what you're saying?

11 A. I would guess.

12 Q. Okay. Can you go back to the aerial.

13 Now, if I understood what you're saying is --
14 let's see if we can see on here. Do you see -- can you see
15 on this aerial where in relation to Carol Kennedy's house
16 that step-over gate might be?

17 A. It should be somewhere right in here.

18 Q. Okay. Can you -- that looks like the walls to that
19 walled garden; correct?

20 A. It should be here. That is that -- what did you
21 call it, a walled garden?

22 Q. Yes.

23 A. It was on the south side of the walled garden. If
24 that's the garden, then it would be here.

25 Q. Okay. Okay. And can you show us again where the

1 first part of track number one went, how it left from that
2 step-over and where it proceeded?

3 A. Well, since this is not my map with the waypoints,
4 it's not probably going to be very pretty, but it should have
5 gone this way and out this direction.

6 Q. Okay. And is that the trail that you think -- and
7 you started to show a trail -- there was a little trail that
8 came out of Spur and it connected to a larger trail and the
9 larger trail was actually on both sides of the boundary
10 fence, isn't it, part of it in the open land and part of it
11 in the residential area?

12 A. Are you speaking of the one by what looks like an
13 arena?

14 Q. Yes.

15 A. Yes, it looks like it's go both directions.

16 Q. Okay. Did you see a gate up there by the arena?

17 A. I didn't go to the arena.

18 Q. Okay. So -- so you followed track one on the
19 little Spur trail until it joined up with the larger trail;
20 correct?

21 A. Well, again, without looking at that map, I -- I
22 believe it went this direction, yes.

23 Q. Okay. And followed that trail and started to go
24 north and a little bit east; correct?

25 A. Yes.

1 Q. Okay. We're going to pull the map down. And then
2 that trail connects up to the trail that comes off the gate
3 at Glenshandra. Do you see that intersection?

4 A. I do see that.

5 Q. Okay. Could you show the jury with the -- you
6 follow the trail up there heading north more or less to that.
7 Okay. And now you're heading up north and east on another
8 trail. And we're going to follow that trail out -- keep on
9 going, and it's -- slow down for a sec.

10 Now, can we see off parallel to the trail that
11 you're talking it's running north and east, there's a pretty
12 obvious wash that parallels the trail right in that spot;
13 correct?

14 A. Yes.

15 Q. Okay. And about how far would you estimate that it
16 is from the trail where you were tracking track number one to
17 that wash right in this spot?

18 A. I have no idea.

19 Q. Okay. Could you see the wash as you were walking
20 along the trail?

21 A. I wasn't paying attention to the wash.

22 Q. Okay. You were looking down.

23 Okay. Tell the jury if you would then where
24 you saw horse hoofprints for the first time near the track
25 one shoe impressions.

1 A. I didn't.

2 Q. Ever?

3 A. They may have been out there, but I don't remember
4 seeing them.

5 Q. Okay. Are you aware that two ladies who live very
6 near, one lives near Carol Kennedy and one lives elsewhere,
7 but rides there, two ladies said they encountered Carol
8 Kennedy out on her run as she was coming back -- I'm sorry,
9 she was going out and they were coming back from a horseback
10 ride? Do you know that story?

11 A. I heard parts of that story.

12 Q. Okay. And they've already been here and testified
13 in this trial and they talked about running into Carol out on
14 this track and standing with her for a bit while she petted
15 one of the horse's noses. Do you remember that story -- that
16 part of the story?

17 A. Never heard that part of the story.

18 Q. Okay. Wouldn't you expect if they are accurate
19 that you would see in the vicinity of track number one some
20 horse hoofprints?

21 A. Possibly.

22 Q. Okay. And you don't remember seeing any?

23 A. No.

24 Q. Would that be because you were only looking at the
25 shoe impressions?

1 A. That would be my focus, yes.

2 Q. Okay. Is it possible that there were no such horse
3 hoofprints there and these women are just wrong?

4 A. I don't know. I didn't see -- I don't specifically
5 remember seeing any horse hoofprints.

6 Q. Okay. Okay. And let's follow this track out now.
7 Are we still showing you the trail where you were tracking
8 track number one? Do you see the trail in this part of the
9 photograph?

10 A. Uh-huh. I think --

11 Q. And if you keep on going further out.

12 A. Well, I just don't know right at this point.

13 Q. Okay. Do you recognize that as the trail that you
14 were following?

15 A. Not without looking at my other map, I don't.

16 Q. Well, let's -- if it --

17 A. It won't be on that big one I don't think.

18 Q. Okay. Would it be on any of these?

19 A. It would be on the little one.

20 Q. The little one?

21 A. The little one. I don't know the number.

22 Q. Not this one, 2647?

23 A. No.

24 Q. Okay.

25 MR. SEARS: Your Honor, may the witness step

1 down for a moment?

2 THE COURT: Yes.

3 MR. SEARS: Would you like to take a look
4 through and see if you see the little one you're talking
5 about.

6 THE WITNESS: I -- this size.

7 BY MR. SEARS:

8 Q. Oh, okay. Okay. There's an exhibit that has this
9 larger one reduced to eight-and-a-half-by-eleven?

10 A. No. There's an exhibit that has -- shows the track
11 going way up here, but it's on eight-and-a-half-by-eleven.

12 Q. Okay. We'll look for that in a bit.

13 Okay. So you don't -- as -- as you are
14 sitting here, this aerial photo is not something you're
15 familiar with? You don't necessarily see where you were
16 walking on this aerial photo?

17 A. Correct.

18 Q. Okay. I'm trying to switch back. I'm sorry. I
19 thought I had it. There we go. Okay.

20 Let me show you -- I'm sorry, this hasn't
21 been -- yes, it has. This is 2311 in evidence. Do you
22 recognize this, Detective, as the gate at the end of
23 Glenshandra looking into the open land?

24 A. That's what it looks like, yes.

25 Q. Okay. And you can see -- when we go down here, you

1 can see crime scene tape in the foreground and crime scene
2 tape on the other side of the open land side of the gate;
3 correct?

4 A. Yes.

5 Q. Were you ever out at this location when this crime
6 scene tape was up in these locations?

7 A. I believe when I first got there, the crime scene
8 tape was on the closer to us side. I don't recall it being
9 on the other side.

10 Q. Okay. And, in fact, you were working in the area
11 where the crime scene tape crosses the trail on the other
12 side? You were tracking up in that area and looking at other
13 things; correct?

14 A. Yes.

15 Q. So it's unlikely the crime scene tape was up at
16 that point; correct?

17 A. Correct.

18 Q. All right. Now, on this side, this is -- this is
19 taken from Glenshandra, isn't it? From Glenshandra looking
20 east into the open land; correct?

21 A. Yes.

22 Q. Okay. You can see on the -- what would be the west
23 side of this gate, on the pavement side, you can see that
24 there's gravel here and it appears in this picture to turn to
25 dirt as you get near the gate. Is that the way it looked to

1 you that night?

2 A. It looked like a mixture of gravel and dirt going
3 that way, going east.

4 Q. Okay. And then there is dirt on the other side, on
5 the east side of the gate there; correct?

6 A. Yes.

7 Q. Okay. And am I correct in understanding that you
8 saw no footprints that you thought were associated with
9 either track one or track two on this near side of the gate
10 at Glenshandra; correct?

11 A. Correct.

12 Q. The first impression you saw was on the other side;
13 is that right?

14 A. Yes.

15 Q. Okay. And the bicycle tracks that you saw also
16 began on the other side of that gate and headed off into the
17 open land; correct?

18 A. Yes.

19 Q. You saw no bicycle tracks on the near side; is that
20 right?

21 A. Correct.

22 MR. SEARS: Okay. Your Honor, this particular
23 Exhibit 2311 really doesn't project well. May I take just a
24 moment and let the jury take a look at it?

25 THE COURT: Yes.

1 MR. SEARS: Thank you.

2 THE COURT: Counsel, it's a bit early. We do
3 need to take a brief recess right now, about 10 minutes, and
4 we'll start right up. Thank you. Remember the admonition.

5 (Recess from 2:12 p.m. to 2:25 p.m.)

6 THE COURT: Thank you. Please be seated.

7 The record will show the presence of the
8 defendant, all the attorneys, and the jury. The witness is
9 back on the witness stand, and the jury is now looking at an
10 exhibit that's being passed around.

11 (Brief pause.)

12 MR. SEARS: Your Honor, for the record, the
13 jury was looking at Exhibit 2311.

14 THE COURT: Thank you.

15 MR. SEARS: I think they may be done, your
16 Honor. Thank you.

17 BY MR. SEARS:

18 Q. Detective, you were telling us before we broke that
19 when you finished -- when you finished the line search on the
20 open land side of the fence, then the same group proceeded to
21 do what you called a line search down Glenshandra heading
22 towards Williamson Valley Road; is that right?

23 A. Yes.

24 Q. Could you describe how that was done?

25 A. We had searchers on both sides of Glenshandra and

1 we walked the same in a line on both sides of the road
2 simultaneously down to Williamson Valley Road.

3 Q. Okay. We're going to try and project that piece of
4 this here. Okay. So if we could have a little more of
5 Glenshandra here heading west. Okay. It takes a minute to
6 catch up. Okay, so you can stop right there for a second.

7 So this is looking at the aerial photograph
8 again, and you see Glenshandra running across the center of
9 this aerial photo; correct?

10 A. Yes.

11 Q. And it has streets coming off it, but if I
12 understand what you're saying is that the group of eight
13 started maybe four on each side of the road? Is that how you
14 did it?

15 A. I believe so, yes.

16 Q. Kind of shoulder to shoulder with some spacing?

17 A. Yes.

18 Q. And, again, just walking westbound on Glenshandra
19 looking for what?

20 A. Evidence, any kind of evidence that could be
21 related to.

22 Q. Okay. Anything that anybody saw that they thought
23 was interesting?

24 A. Any of the searchers saw, yes.

25 Q. Okay. And was anything located on this stretch of

1 Glenshandra before you got to Williamson Valley?

2 A. Not that I'm aware of.

3 Q. Okay. Do you have any sense of how far it is from
4 the gate at Glenshandra out to Williamson Valley Road?

5 A. I would guess it's over half a mile.

6 Q. Okay. If I told you it's almost exactly a mile,
7 would that seem right?

8 A. Yes.

9 Q. Okay. And then when the group got to the
10 intersection of Glenshandra and Williamson Valley Road --
11 okay. There's the intersection of Williamson Valley Road and
12 Glenshandra; correct?

13 A. Uh-huh. Yes.

14 Q. Okay. And which way did the group go when you got
15 to that intersection north being up more or less in this
16 picture?

17 A. Northwestish.

18 Q. Okay. So you got out onto Williamson Valley Road,
19 and you did the same line search up Williamson Valley Road?

20 A. On Williamson Valley Road, we all got on one side
21 of the road starting on the west side.

22 Q. Okay. And there's a -- there are right-of-way
23 fences. I think you can sort of see the right-of-way fences
24 on both sides of Williamson Valley Road right in that stretch
25 there. Can you see that on the photograph from where you're

1 sitting? Can you see the right-of-way fence on the west side
2 of the rode?

3 A. Is this it?

4 Q. Okay. And can you see a fence equivalent distance
5 on the east side of Williamson Valley Road there?

6 A. I think so right here.

7 Q. Okay. So you stayed -- the group of you stayed
8 between the edge of the pavement and the right-of-way fence
9 on the west side and marched how far?

10 A. All the way to the Williamson Valley where the fire
11 station is or used to be by the Williamson Valley Trailhead.

12 Q. It was there this morning, so I'm thinking it's
13 still there.

14 A. Okay.

15 Q. Okay. And the Williamson Valley Trailhead is right
16 there by the fire station; correct?

17 A. Yes.

18 Q. Did you go into the -- into the parking lot of the
19 Williamson Valley Trailhead?

20 A. Yes, we did.

21 Q. Did you do a search in there?

22 A. Yes.

23 Q. What did you search?

24 A. Just the parking lot area. I believe -- I believe
25 somebody may have gone into the -- the outhouse area, but I

1 didn't.

2 Q. Okay. We're thinking that might have been Sergeant
3 Huante.

4 A. That's a good place for him.

5 Q. May the record reflect that was the witness'
6 comment. Okay.

7 All right. And then did you come back and
8 come down the east side of Williamson Valley Road?

9 A. To the best of my recollection, that's the way he
10 did it, but I could -- I remember walking on this side of the
11 road and I can't really remember walking on that side of the
12 road, so --

13 Q. Okay. Do you --

14 A. -- we could have been split up the way we were
15 before. I can't really remember.

16 Q. Do you have any estimate of how far it is from the
17 intersection of Glenshandra and Williamson Valley Road up to
18 the trailhead?

19 A. I would guess that's more like a mile.

20 Q. Okay. Some distance; correct?

21 A. Yes.

22 Q. All right. And -- and are you confident though
23 that when you were done, both sides of Williamson Valley Road
24 and that stretch between Glenshandra and the Williamson
25 Valley Trailhead had been searched?

1 A. Yes.

2 Q. Okay. Was anything of interest found during that
3 search?

4 A. Not that I'm aware of.

5 Q. Okay. And Williamson Valley Road and that stretch
6 is a fairly busy road; right?

7 A. Depending on time of day, yes.

8 Q. It's busier generally than Glenshandra; right?

9 A. Yes.

10 Q. Glenshandra is a residential road and Williamson
11 Valley Road is an arterial road; correct?

12 A. Yes.

13 Q. Okay. Now, were you aware that -- and this is on
14 Sunday the 6th of July you did this; correct?

15 A. Yes.

16 Q. Okay. Are you aware that -- that on the night of
17 July 2nd and 3rd Mr. DeMocker told Detective Brown and
18 Sergeant Huante that he had actually been riding his bike
19 near Williamson Valley Road?

20 A. I became aware of that, but I'm not sure when.

21 Q. Okay. Would it be surprise you to learn that
22 Mr. DeMocker said that he was actually riding his bicycle
23 south of this location, that he parked his bike on a street
24 called Rainmaker?

25 A. Would it surprise me? No, it wouldn't surprise me.

1 Q. Did you know that?

2 A. I don't know what area he was supposed to be riding
3 in.

4 Q. Do you know that Mr. DeMocker told Sergeant Huante
5 and Detective Brown that he did not ride his bike at the
6 Williamson Valley Trailhead that night? Did you know that?

7 A. I don't recall having that information.

8 Q. Okay. Sergeant Huante was with you when you did
9 this search; is that right?

10 A. On this search?

11 Q. Williamson Valley Road.

12 A. No.

13 Q. Did he meet you someplace along this search?

14 A. No.

15 Q. Did he somehow -- was he at any part of this line
16 search on either Glenshandra or Williamson Valley Road?

17 A. No.

18 Q. Okay. Was he in telephone contact with you during
19 any part of the line search, either on the open land or the
20 Williamson Valley Road/Glenshandra line search?

21 A. I don't believe I ever talked to him on the phone,
22 no.

23 Q. Can we go south some here down towards Rainmaker.
24 Okay.

25 Do you recognize any of these cross streets

1 that run east/west on this piece of Williamson Valley Road?

2 A. No.

3 Q. Okay. Do you see Bridle Path in this portion of
4 the aerial photo?

5 A. Well, I would have to guess, but I think it's this
6 right here.

7 Q. Okay.

8 A. Possibly.

9 Q. Now, we have moved the aerial photo considerably
10 south of Glenshandra now, haven't we?

11 A. Yes.

12 Q. Okay. Is there any reason that you know of why
13 either this stretch of Williamson Valley Road or any of the
14 roads up on the west side were not line searched?

15 A. I do not know.

16 Q. Do you know if they were ever searched?

17 A. I don't know.

18 Q. Okay. They weren't searched when you were present
19 on July 6th; is that right?

20 A. Not that I recall. I only remember going towards
21 the Williamson Valley Trailhead.

22 Q. Okay. Let's -- if we could go back to the ELMO,
23 Rich.

24 I think we found your little map here,
25 Detective. It would be 2653 in evidence. Is this the little

1 map we were looking for?

2 A. Yes.

3 Q. Okay. Now, this map -- although it's somewhat
4 difficult to see, this map appears to show your waypoints
5 heading out north and east of the gate at Glenshandra.
6 Here's Glenshandra and there's the gate there and here are
7 these green dots which you say were waypoints on track one;
8 correct?

9 A. Yes.

10 Q. Okay. And I ask you again, do you remember
11 anywhere on the area described by these green dots, the
12 waypoints on track one, seeing any hoofprints at all from any
13 animals?

14 A. I don't remember seeing any, no.

15 Q. Okay. What about bicycle tracks? You talked about
16 bicycle tracks that you saw very near the Glenshandra trail.
17 What about out here as you got into the open land, did you
18 see any bicycle tracks?

19 A. I did not.

20 Q. Were you looking?

21 A. Well, having information that there may have been a
22 bicycle ride earlier in the day, I would have -- if I would
23 have noticed bicycle tracks, I would have marked them and
24 come back to them later.

25 Q. But it's possible --

1 A. I did not see anything.

2 Q. It's possible -- you were basically focused on, if
3 I understand your testimony, following track one all the way
4 out until it's end point out here out by the white gate and
5 then back? That's primarily what you were doing; right?

6 A. Yes.

7 Q. And I think you described actually walking a lot
8 with your head down looking at the ground; right?

9 A. Yes.

10 Q. And so if there had been bicycle tracks on some of
11 these other trails out here, you weren't in that area and you
12 weren't looking for them; correct?

13 A. Correct.

14 Q. So you can't tell us as you sit here whether there
15 were actually other bicycle tracks out here or not? You just
16 didn't see any?

17 A. Correct.

18 Q. Okay. And do you know of any other search
19 conducted by any other police officer that went basically
20 further north or east if you drew a line parallel to
21 Glenshandra out east about where you said you did the line
22 search? Maybe a little bit north of Glenshandra out in here
23 and out to an area that I think you described -- maybe if I
24 had the laser pointer instead of my giant pen.

25 MR. BUTNER: I'd like to note an objection at

1 this point, Judge. He's misstating the prior testimony.
2 He's not pointing to Glenshandra.

3 THE COURT: Okay. Of course, Mr. Sears is not
4 testifying. He's asking questions, and the jury will rely on
5 their --

6 BY MR. SEARS:

7 Q. Maybe I can zoom in. This is not my favorite map.
8 I see -- I see what I think appears to be Carol Kennedy's
9 house down here. If you could zoom that in a little bit,
10 Rich. Okay.

11 Okay. We can see Glenshandra here.
12 Mr. Butner is correct. I was trying to do this from a
13 distance. We can see Glenshandra here and we can see a
14 waypoint -- we can see now these giant green dots starting
15 from Carol Kennedy's property heading north and east, and
16 then as they go out north and east out following track one,
17 we can see them perhaps a little more clearly now moving out
18 to the point where you said you turned around.

19 Okay. Are you with me now?

20 A. Yes, I'm with you, but I forgot what your question
21 is at this point.

22 Q. I'm just trying to establish where we were when
23 Mr. Butner corrected me.

24 A. Yes.

25 Q. I was simply wrong. Glenshandra is here.

1 A. Oh, okay. Yes.

2 Q. Near where the word Glenshandra is. Always a dead
3 giveaway.

4 Now, as you -- as you're moving out in this
5 area, as you move out north and east, following track one
6 from waypoint to waypoint, okay, how many photographs -- did
7 you take a photograph of each of these waypoints outbound on
8 track one?

9 A. No.

10 Q. Okay. And did you take a photograph of each of the
11 waypoints inbound?

12 A. No.

13 Q. Okay. Can you tell which of these waypoints was
14 marked when you were going out -- were they all marked as you
15 were outbound?

16 A. They -- up there on that -- right -- a little bit
17 left. That one. There should be two waypoints there, and I
18 went to the northeast and then to the most southern dot
19 there on that triangle.

20 Q. Yep.

21 A. And then I went up to the fence, and then she came
22 back -- or the person came back this way.

23 Q. Okay.

24 A. Like this, this, and this.

25 Q. Okay. Are you saying you saw no other shoe print

1 impressions other than track one on this one-and-a-half-mile
2 stretch from the back of Carol Kennedy's house out to the
3 white gate?

4 A. I did not.

5 Q. Not a single shoe print?

6 A. Other than my own.

7 Q. Okay. And how about in the area near the bicycle
8 tracks? Did you see other shoe prints other than the ones
9 you associated with track two near the bicycle tracks?

10 A. Once I got there, yes.

11 Q. Yes. Okay. There were lots of shoe prints,
12 weren't there?

13 A. There were more than two.

14 Q. Let me show you --

15 A. There appeared to be more than two.

16 Q. Let me show you what's marked for identification as
17 2448, and I ask you if you recognize what is depicted in the
18 photograph, please?

19 A. It appears to be bicycle tracks and shoe prints.

20 Q. Okay. And do you see an evidence tent?

21 A. Yes.

22 Q. So we can show the jury a picture of the evidence
23 tent. Hold it. This is a secret so far.

24 A. Sorry.

25 Q. Okay. And is this a portion of the bicycle track

1 that you were looking at on July 3, 2008? Do you recognize
2 the area?

3 A. Yes.

4 MR. SEARS: Okay. Your Honor, I would move
5 2448.

6 THE COURT: Mr. Butner?

7 MR. BUTNER: Let me take a look. No
8 objection.

9 THE COURT: 2448 is admitted.

10 BY MR. SEARS:

11 Q. Okay. Let me show you -- well, I have a feeling
12 this is one that is not going to project all that well, but
13 let's take a look at 2448 here and see if we can get a little
14 closer. Okay. We see, as difficult as it is, a couple of
15 things here. The first thing we notice is down here in the
16 lower right-hand corner, that's an evidence tent; right?

17 A. Yes.

18 Q. And that would be number 4; correct?

19 A. Yes.

20 Q. Okay. And you didn't place that; right?

21 A. No.

22 Q. And we see photographs of -- as you look through
23 this and I pull it down here, you can see what appear to be
24 bicycle tracks in the dirt; correct, heading out to the east
25 on the open land; correct?

1 A. Yes.

2 Q. Okay. Now, over here to the -- it would be to the
3 south of these tracks in the ground here, do you see -- on
4 this photograph, do you see shoe print impressions?

5 A. Yes.

6 Q. Okay. Do you see lots of shoe print impressions?

7 A. Yes.

8 Q. Okay. Do you know who made all those shoe print
9 impressions?

10 A. When I got to that location, there were already
11 people on the other side of the fence so I know who made some
12 of them.

13 Q. Okay. And people would be law enforcement; right?

14 A. Yes.

15 Q. Okay. Did anybody try to determine how many
16 different shoe prints are depicted just in this one piece of
17 the bicycle tracks here?

18 A. I do not know.

19 MR. SEARS: Okay. Now, your Honor, I'm afraid
20 I'm going to have to ask your indulgence to publish this
21 photograph. It really doesn't project well. This is 2448.
22 May I do that, your Honor?

23 THE COURT: You may.

24 MR. SEARS: Thank you, your Honor.

25 (Brief pause.)

1 MR. SEARS: May I approach the witness, your
2 Honor?

3 THE COURT: Yes.

4 BY MR. SEARS:

5 Q. Detective, let me show you 2448 a little more
6 closely there. Do you see any impressions in that photograph
7 that you believe are connected to track two?

8 A. I can't.

9 Q. You cannot?

10 A. I cannot.

11 Q. Okay. Now, from the condition of the images of the
12 bicycle track impressions and the presence of the evidence
13 tent, it's reasonable to assume that that picture was taken
14 on July 3, 2008; correct?

15 A. Yes.

16 Q. When you came back on July 6th, neither the
17 evidence tents nor those bicycle tracks were there; correct?

18 A. Yes. Correct.

19 Q. Now, let's look again at your little map. This is
20 2653 again. I note here that you have boxes. Looking just
21 east, there are -- I can't tell whether that's two on top of
22 each other, so there's a total of four waypoints and those
23 are connected with the bicycle tracks?

24 A. And track two.

25 Q. And track two. Okay. Those are places where you

1 saw bicycle tracks and track two?

2 A. Yes.

3 Q. So there's four altogether?

4 A. Yes.

5 Q. Okay. And how long are the bicycle tracks?

6 A. From that waypoint there, which would be 24, to
7 waypoint 27 which would be one of those two boxes I believe,
8 I think it was .06 miles.

9 Q. Okay.

10 A. So less than a tenth of a mile.

11 Q. .06 miles?

12 A. Correct.

13 Q. Okay. Less than a tenth of a mile. Less than
14 176 yards, which is a tenth of a mile.

15 A. I'm not that good at math, but .06.

16 Q. If I told you I think there are 1760 yards in a
17 mile, does that sound about right?

18 A. Sweet.

19 Q. Okay. And you don't -- how far is waypoint -- is
20 that 24?

21 A. Yeah, it should be.

22 Q. How far is 24 from the gate at Glenshandra?

23 A. It was just inside the gate.

24 Q. Okay. And did you try and mark a waypoint every
25 time you saw an impression that you thought was associated

1 with track two?

2 A. No.

3 Q. How many different impressions do you think you saw
4 that were associated with track two near the bicycle tracks?

5 A. How many -- say that again, please.

6 MR. SEARS: Could I have it read, your Honor.

7 (The requested record was read.)

8 THE WITNESS: So you're meaning how many steps
9 of track two?

10 BY MR. SEARS:

11 Q. Yes.

12 A. I didn't count them. I don't know.

13 Q. Okay. And how many photographs, if any, did you
14 take other than the one we know you took near the gate, 2522,
15 that was not admitted? Did you take any other photographs of
16 track two tracks near the bicycle tracks?

17 A. No.

18 Q. Okay. So there are no pictures in evidence that
19 you took of what you say are track two tracks near the
20 bicycle tracks; correct?

21 A. Correct.

22 Q. And as you sit here today, you don't know whether
23 the track two tracks were associated in any way with the
24 bicycle track?

25 A. Correct.

1 Q. You don't know if they were made at the same time
2 that the bicycle track was made? You don't know that?

3 A. I could -- it is my opinion that they came after
4 the rain just like I explained before.

5 Q. But you weren't there when it rained?

6 A. Correct.

7 Q. You don't know when that was?

8 A. Correct.

9 Q. Okay. And you don't know whether or not there were
10 two different events, somebody walking and somebody with a
11 bicycle? You don't know whether that's true or not; correct?

12 A. I do not know that.

13 Q. Okay. And there's been some testimony and I think
14 you maybe even said this that the bicycle tracks end here,
15 these two waypoints on top of each other, near a clump of
16 bushes; is that right?

17 A. Brush, trees, just in some vegetation.

18 Q. Okay. Are there pictures that you've seen of the
19 area where the bicycle tracks ends?

20 A. Pictures that I've seen?

21 Q. Yes.

22 A. Yes.

23 Q. Okay. Did you take any pictures?

24 A. Not of that area.

25 Q. Okay. Who did?

1 A. I believe it was our evidence technician.

2 Q. Dawn Miller?

3 A. Yes.

4 Q. Okay. So we'll have to wait until she comes to
5 look at all her photographs; right?

6 A. It would be either her or Sergeant Winslow who took
7 pictures as well.

8 Q. Okay. And you said -- we were talking -- I was a
9 little bit confused. You said that -- that when you went out
10 on this -- on this walk, you put on a heavy camouflage,
11 long-sleeved shirt so that you wouldn't be scratched; right?

12 A. Yes.

13 Q. Okay. Are you saying that if you hadn't been
14 wearing that shirt, you would have been scratched?

15 A. Going -- going through that vegetation, I would
16 have got scratched.

17 Q. Okay. Okay. Going through the vegetation trying
18 to follow these tracks?

19 A. Yes.

20 Q. Okay. But you weren't?

21 A. No, I was not.

22 Q. Okay. Were you wearing long pants?

23 A. Yes.

24 Q. Okay. And boots?

25 A. Yes.

1 Q. Okay. Okay. And the place where you thought you
2 would have been scratched would have been up where the
3 bicycle tracks ended?

4 A. I didn't know where I was going to be tracking, so
5 I could have -- possibly where that cluster of yellow crosses
6 is could have got scratched in there and then again where the
7 cluster between about halfway from the house to where the
8 bicycle tracks end, again, it was very heavy.

9 Q. Thank you. All right. If I understand what you
10 said, this track here, it's a little bit difficult on this
11 map because on the small scale all of your yellow crosses
12 tend to run together down here, but you came down here and
13 eventually it went up and the -- the trail ended before you
14 got to the barbed wire fence between Carol's house?

15 Maybe if we could go back to the aerial, Rich.
16 It would be easier to show. I think your little map has used
17 its purpose up.

18 Do you understand my question? You follow
19 track two down and it turned and went pretty much right to
20 the back of Carol Kennedy's house; right?

21 A. Yes, but it went off the trail. I thought that's
22 what you said.

23 Q. Okay. I probably didn't ask my question very
24 clearly.

25 We're going to move up north here. Okay.

1 Do you recognize -- here is Bridle Path and here's where it
2 turns and becomes Jockey Path and here is Carol Kennedy's
3 house and a guesthouse. Do you see that area there?

4 A. Yes.

5 Q. Okay. And you were -- if you could just go a
6 little bit further north, Rich. The track you were following
7 came down and just generally came down and then eventually --
8 go back south a little bit -- came right into an area more or
9 less directly behind Carol Kennedy's house. Here's the fence
10 that runs between her house and the open land. And these
11 tracks that you were following stopped on this side of the
12 track for a period of time and then you saw -- we'll talk
13 about the ones you saw on the other side, but you followed
14 them up to this fence; right?

15 A. Yes.

16 Q. Okay. And they came to the fence not at the point
17 where -- up here by the walled garden where that step-over
18 was, but they just came to the fence behind the house;
19 correct?

20 A. Up further, but yes.

21 Q. Okay. Right behind the house? Right in there?

22 A. Yes.

23 Q. Okay. How far, if you remember, was the last
24 impression that you saw heading towards the house from the
25 fence? We're talking about the last impression on the open

1 land side. How far was that last step before you got to the
2 fence?

3 A. Probably the last step that I could see going
4 towards the house would be about five feet, because right
5 there behind the fence, there's a lot of dead leaves.

6 Q. Okay. So the last visible impression was about
7 five feet from the fence? Is that what you're saying?

8 A. Going towards the house.

9 Q. And then you told us that you saw the impressions
10 that you marked with a flag on the inside here; right?

11 A. Yes.

12 Q. Two, maybe three? Two that you saw?

13 A. Yes.

14 Q. And for some reason, somebody, maybe Mascher, put a
15 third flag out; right?

16 A. Yes.

17 Q. Or maybe that third flag is just a directional
18 flag?

19 A. I don't know.

20 Q. We'll find out. Okay. All right. And that's what
21 you saw.

22 Now, did you see any track two footprints down
23 at all in the area by the wooden-slatted step-over?

24 A. Well, at the wooden slat, no.

25 Q. Okay. And I'm talking about on the open land side.

1 A. Well, eventually, I was able to go from the back of
2 the house north, but, again, as I said, that area is sandy so
3 there was no definite thing to see. I mean, you could see
4 where a step was as far as tracking it --

5 Q. Okay.

6 A. -- but there was no definite impression.

7 Q. Okay. And you took no measurements between any of
8 the impressions to assist someone else in determining stride
9 length, did you?

10 A. I did not.

11 Q. Okay. Did you even know there was such a thing?

12 A. As stride length?

13 Q. Yes.

14 A. Yes.

15 Q. Okay. And do you know how to do that? Do you know
16 how to take such measurements?

17 A. Yes.

18 Q. Okay. But you didn't?

19 A. I did not.

20 Q. Okay. Did anyone else?

21 A. Not that I'm aware of.

22 Q. Okay. Let me show you, if I could on ELMO here, a
23 couple of other photographs of the other side of the house.
24 This is 2318. Do you recognize 2318 as a portion of the
25 front of Bridle Path from the west side, from the Bridle Path

1 side?

2 A. From the pavement?

3 Q. Yes.

4 A. Yes.

5 Q. Taking Bridle Path and here is the opening in the
6 little perimeter wall and this is the guesthouse; right?

7 A. Yes.

8 Q. Okay. A little archway and here's a corner of the
9 main house; correct?

10 A. Yes.

11 Q. And then you can see the open land in the
12 background here. That's where it would be to the rear of the
13 property as you were standing on the street; right?

14 A. Yes.

15 Q. Okay. Now, did you conduct any examination at all
16 looking for shoe print or other impression evidence anywhere
17 in the area depicted in this photograph?

18 A. When I went onto the property, I went up on the
19 right-hand side there.

20 Q. Yes.

21 A. And then I got up on the cement.

22 Q. Yes.

23 A. And I did notice that there were shoe prints there.

24 Q. Where?

25 A. In the driveway area.

1 Q. In this area here?

2 A. Well, up from -- yeah, basically the driveway area.

3 Q. Okay. Did you call it to anyone's attention?

4 A. I did not.

5 Q. Okay. Do you know whose shoe prints they were?

6 A. Specifically, no.

7 Q. Okay. And how many did you see?

8 A. Several.

9 Q. Can you show me with the laser pointer where you
10 saw these shoe print impressions?

11 A. Yes. They would have been up in here.

12 Q. Okay. All right. Now, did they appear all to be
13 made by one person or multiple people?

14 A. They looked like different sizes, so -- but looked
15 multiple to me.

16 Q. Okay. Can you see automobile tire impressions in
17 that photograph?

18 A. Yes, I can.

19 Q. Okay. Were there automobile tire impressions when
20 you were there on the morning of July 3?

21 A. I believe so.

22 Q. Okay. Do you know when this photo was taken?

23 A. I have no idea.

24 Q. Is that the way it worked on July 3 with the
25 absence of the crime tape?

1 A. I couldn't say for sure.

2 Q. Okay. How about -- let's take a look at 2316,
3 which is a different view, and it goes pretty yellow here on
4 me on the ELMO. Do you recognize that as -- I'll pull back a
5 minute. You can see that that is a photograph looking now a
6 little more north and east and the main part of the house
7 behind those trees; correct?

8 A. Yes.

9 Q. Okay. And you can see there's driveway on the left
10 side of this photograph 2318; correct?

11 A. Yes.

12 Q. Did you go over in that area at all?

13 A. Pardon me?

14 Q. Did you go over in that area at all?

15 A. No, I did not.

16 Q. Did you see any other police officers searching in
17 that area?

18 A. I don't recall.

19 Q. Okay. Were you part of any discussion with any
20 other police officers at the scene on July 3 about the
21 possibility that whoever did this may have come in from this
22 side of the house as opposed to coming in off the State land?
23 Did anybody ever discuss that possibility?

24 A. No.

25 Q. Would it have made sense if that was a possibility

1 to search these areas looking for impression evidence, shoe
2 print, bicycle tire, automobile tire impression in this area?

3 A. Yes.

4 Q. Do you believe that was done?

5 A. I do not know.

6 Q. Okay. And let me show you 2317. 2317, now we're
7 in -- looks like we're probably inside on the property where
8 this picture was taken; correct? We're actually probably on
9 the property?

10 A. It looks like it, yes.

11 Q. Okay. And you can see the archway, and is this
12 also -- now down here in the lower right-hand corner, is this
13 where you saw the shoe prints?

14 A. Yes, that area.

15 Q. Okay. And through that archway, the -- the
16 guesthouse, you can see there's a wall that runs parallel to
17 the archway wall that's just in the back here. I'm talking
18 about this wall here.

19 A. Yes.

20 Q. Do you see that wall? And in that area, there's an
21 area of -- of grass and dirt in that area; correct? There's
22 a little patio and then some grass and dirt?

23 A. Yes.

24 Q. Was that area searched for possible shoe print or
25 other impression evidence? Do you know?

1 A. I looked over there on my approach. I didn't see
2 anything.

3 Q. Okay. Did you look carefully?

4 A. Fairly carefully.

5 Q. Did you look as carefully as you did when you were
6 following track one and track two?

7 A. Probably not.

8 Q. Did you know who lived in the -- when you were
9 there on July 3, did you know who occupied the guesthouse?

10 A. I do know who occupied the guesthouse. I don't
11 know if I knew it on the 3rd.

12 Q. A Mr. Knapp?

13 A. Correct.

14 Q. You're just not sure when you learned that?

15 A. Yes.

16 Q. Did you ever see Mr. Knapp?

17 A. I don't think so.

18 Q. Was he there on the 6th when you were there, Sunday
19 the 6th?

20 A. I don't know.

21 MR. SEARS: Can I have 2524 and 2525? Just
22 tell me where they are.

23 BY MR. SEARS:

24 Q. Let me show you 2524 in evidence. Okay. You said
25 that was a track two impression?

1 A. I don't know what that is. Is that one of the
2 photos I took?

3 Q. It's -- yep.

4 A. If you tell me the number on the back, I could tell
5 you possibly.

6 Q. I believe it's 1482.

7 A. 1482 would have been a track two impression.

8 Q. Okay. There? It's in that picture?

9 A. Can I look at that?

10 Q. Sure.

11 A. Can I take it off here and look at it closer?

12 Q. Please.

13 A. Yes.

14 Q. You see it?

15 A. Uh-huh.

16 Q. Okay. And may I ask you the same question of 2525.
17 Looking at that, do you see that picture? Do you see a shoe
18 print there?

19 A. Yes, I do.

20 Q. Okay. And that was taken at a waypoint, and these
21 were consecutive waypoints; correct?

22 A. Yes.

23 Q. Okay. And that's a track two photo?

24 A. Yes.

25 MR. SEARS: Your Honor, for the last time,

1 could I show these two, 2524 and 2525, to the jury, please?

2 THE COURT: You may.

3 MR. SEARS: And the witness can resume the
4 witness stand.

5 THE COURT: Yes.

6 (Brief pause.)

7 MR. SEARS: Your Honor, while the jury's
8 looking at those two exhibits, to clarify the record, we were
9 talking about search warrants and I went and looked at
10 earlier search warrants and Exhibits 2649 and 2650 in
11 evidence are the search warrants extracted from Exhibit 794
12 and 796 and they just simply contain the search warrants.
13 If you remember, we pulled those out and had them marked and
14 entered and so I think that answers the questions about the
15 remaining search warrants.

16 THE COURT: Thank you.

17 MR. SEARS: Thank you.

18 BY MR. SEARS:

19 Q. Detective, one final question. These two exhibits,
20 2524 and 2525, you're saying here today that these are shoe
21 print impressions from the same track, track two?

22 A. Yes.

23 MR. SEARS: No other questions, your Honor.
24 Thank you.

25 THE COURT: Thank you, Mr. Sears.

1 Redirect, Mr. Butner?

2 MR. BUTNER: Yes, Judge. Thank you.

3

4 R E D I R E C T E X A M I N A T I O N

5 BY MR. BUTNER:

6 Q. It's kind of cockeyed. Anyway. Oh, that thing.

7 I'm showing you what's been marked as Exhibit
8 Number 2519. Do you remember taking this photograph?

9 A. Yes.

10 Q. Okay. And where did you take this particular
11 photograph?

12 A. I can only tell you if I know the picture number
13 that is mine.

14 Q. Your photograph number 1477.

15 A. Let's see. It would have been at waypoint 5.

16 Q. Okay. Waypoint 5. And what track have you been
17 calling that footprint?

18 A. I have been calling that shoe print track one.

19 Q. Okay. Would you show us again using the laser
20 pointer where you took this particular photograph.

21 A. Right here.

22 Q. Okay. Right up there. And which direction was
23 that heading?

24 A. That was headed north.

25 Q. Okay. And is that a good example from your point

1 of view of track number one?

2 A. Yes.

3 Q. And pointing to the photograph up there on the
4 wall, would you point to the distinguishing characteristic
5 that you associated with track number one?

6 A. This. These three Zs or Ns.

7 Q. Okay. And you followed that footprint way out
8 there to the white gate?

9 A. Yes, and back.

10 Q. And then back?

11 A. Correct.

12 Q. Okay. Let me show you what's admitted into
13 evidence as Exhibit Number 2521. Okay. And do you recognize
14 that particular photograph?

15 A. Yes.

16 Q. And where did -- did you take that photograph?

17 A. I did.

18 Q. Okay. And where was that photograph taken?

19 A. At waypoint 6 and waypoint 30.

20 Q. That's the crossover area?

21 A. Correct.

22 Q. Okay. And would you point to that on the map
23 again?

24 A. Right here.

25 Q. Okay. So the green is waypoint 6?

1 A. Yes.

2 Q. And that's for the three Z track one going out?

3 A. Yes.

4 Q. And then the yellow X is waypoint 30?

5 A. Correct.

6 Q. And that's for track two?

7 A. Correct.

8 Q. Coming in?

9 A. Towards the residence.

10 Q. Okay. Show us the track that track two was going
11 on from that point.

12 A. From this point, it was headed this direction.

13 Q. Okay. And which direction was track one headed?

14 A. Track one was headed this direction.

15 Q. Okay. Going on out to the white gate?

16 A. Basically track one was going north and track two
17 was going south.

18 Q. Okay. And is that a good example of the track that
19 you were following as track two?

20 A. Yes.

21 MR. BUTNER: Okay. Judge, I would like to
22 publish these to the jury.

23 THE COURT: You may.

24 MR. BUTNER: Thank you.

25 (Brief pause.)

1 BY MR. BUTNER:

2 Q. Okay. You told us earlier that you tracked track
3 two continuously from the -- the back of the Bridle Path
4 residence?

5 A. Continuously from Glenshandra.

6 Q. Okay. And when you were tracking track two
7 continuously from Glenshandra, did you see bicycle tracks
8 anywhere close to track two?

9 A. Yes.

10 Q. Where did you see those?

11 A. Where the green squares are.

12 Q. These?

13 A. Correct. From -- from the Glenshandra Trailhead
14 there. I don't want to blind you with this.

15 Q. That's okay.

16 A. From here.

17 Q. Right.

18 A. Like this. There were bicycle tracks that
19 stopped -- or ended here.

20 Q. Okay.

21 A. And there were track two shoe prints next to the
22 bicycle tracks.

23 Q. Okay. And what was the location like in this area
24 where you have these two blue squares?

25 A. As far as --

1 MR. SEARS: Form of the question. I'm sorry,
2 your Honor.

3 THE COURT: Overruled. You may answer.

4 THE WITNESS: Are you asking about as far as
5 vegetation?

6 BY MR. BUTNER:

7 Q. Yes.

8 A. There were trees in this area and brush.

9 Q. Okay. And then which direction did the track two
10 tracks go from that area?

11 A. To this first cross here, which would be waypoint I
12 believe 28, to here and south.

13 Q. Okay.

14 A. And then into this congested area here and then to
15 the back of the residence.

16 Q. Okay. When you were tracking from here at waypoint
17 24, were you tracking the track two footprints and the
18 bicycle tracks?

19 A. I was tracking track two.

20 Q. Okay. And -- but you saw -- if I understood your
21 testimony correctly, you saw bicycle tracks somewhere near
22 the track two tracks?

23 A. Correct.

24 Q. How close?

25 A. A couple of feet.

1 Q. Okay. And your earlier testimony, you indicated
2 that you could not tell the time when the track two tracks
3 were made relative to the time of the bicycle tracks; is that
4 correct?

5 A. Correct.

6 Q. Was there any -- any kind of correlation in time
7 that you could make between those two tracks?

8 A. That they came -- I believe they were made after
9 the rain.

10 Q. And what caused you to believe they were made after
11 the rain?

12 A. Because of the condition of the ground and the
13 dirt.

14 Q. Would you describe the condition of the ground and
15 the dirt, please.

16 A. They had droplet impressions as if it had rained,
17 and in some places, it was very -- had a crust on it and
18 fairly clean. It looked just clean.

19 Q. Okay.

20 A. I don't know another way to describe it.

21 Q. And when you say fairly clean, what do you mean by
22 that?

23 A. That there was basically no other impressions there
24 except for what he pointed out in that other photo, and from
25 this point, I saw no other shoe prints until I got to the

1 track one print and my own again.

2 Q. And that was at -- the track one print was at
3 waypoint 6 for track one?

4 A. Yes.

5 Q. And waypoint 30 for track two?

6 A. Yes.

7 Q. And did you see -- where were the -- where were the
8 prints that you saw in the photograph shown to you 2448? And
9 let me show you that photograph again.

10 A. Okay.

11 MR. BUTNER: May I, Judge?

12 THE COURT: Yes.

13 BY MR. BUTNER:

14 Q. This is admitted into evidence as Exhibit Number
15 2448. Do you know where that photograph -- where that
16 photograph was taken?

17 A. It was taken -- it should have been taken in
18 between these two areas here, but more likely closer to
19 waypoint 24.

20 Q. Right up in this area by waypoint 24?

21 A. Yes.

22 Q. And why are you able to say that?

23 A. Well, because the bicycle tracks didn't -- did not
24 go any further than this and this is actually on a path and
25 the path is here.

1 Q. Okay. Again, you kind of moved quickly there.

2 A. I'm sorry.

3 Q. You say the bicycle tracks did not go any farther
4 than where?

5 A. Waypoint 27 here.

6 Q. Okay. And what's the area where the
7 photograph 2448 was taken in your opinion?

8 A. In my opinion, it's taken right in this area here.

9 Q. Okay. And what is it that causes you to think it
10 was taken in that area?

11 A. Because the -- again, this picture appears to be on
12 a path. There is a path here, but there is not a clear path
13 going this direction.

14 Q. Okay. Now, did that area between waypoint 24 and
15 is this waypoint 25?

16 A. It should be, yes.

17 Q. Okay. Did that area look like it was -- looked
18 like that as depicted in 2448 when you were there tracking?

19 A. Yes.

20 Q. And were you able to track track number two through
21 that area?

22 A. Yes.

23 Q. Okay. Did you examine any of the shoes from any of
24 the other officers that were out there working on this case?

25 A. I did not.

1 Q. Okay. Do you know if anybody did?

2 A. I had heard that they did, but specifically who, I
3 do not know.

4 Q. Okay. You were just focused on track two?

5 A. At that point, yes.

6 Q. And in regard to the rebar that you found when you
7 were out doing the back country search, are you aware of
8 whether that was submitted for laboratory analysis?

9 A. I do not know.

10 Q. Similarly with the piece of paper, were you aware
11 of whether that was submitted for laboratory analysis?

12 A. I don't know.

13 Q. Okay. Who was in charge of taking care of that?
14 Do you know?

15 A. My guess would be possibly Detective Brown at the
16 time.

17 MR. BUTNER: Okay. I don't have any further
18 questions of this witness at this time, Judge.

19 THE COURT: Thank you, Mr. Butner.

20 Ladies and gentlemen, we have three jury
21 questions that have been provided. Are there others? There
22 are some coming. We've got several, so rather than having
23 you wait while we review the questions, as soon as we get
24 them all in, we'll go ahead and take another short recess.

25 So since we're doing that, Detective, if you'd

1 like to step down and recall that the rule of exclusion of
2 witnesses has been invoked.

3 As soon as we get the questions, I want
4 everybody to have enough time to review the questions.

5 Okay. Then we'll take probably a 15-minute
6 recess or so at this time. Thank you. Remember the
7 admonition.

8 (Brief pause.)

9 THE COURT: Please be seated and go on the
10 record.

11 And I'm going to ask Detective Kennedy to
12 please excuse herself while we go over the questions.

13 THE WITNESS: Okay.

14 MR. SEARS: Perhaps we can do the jury
15 questions with --

16 THE COURT: I just asked her to excuse herself
17 while we go over the jury questions, and I have reminded
18 Detective Kennedy of the rule of exclusion.

19 MR. SEARS: Thank you, your Honor.

20 THE COURT: It will probably be 15 or 20
21 minutes or so.

22 (Brief pause.)

23 ---oOo---

24 (Proceedings were held in the absence of the
25 jury.)

1 (Recess from 3:28 p.m. to 3:58 p.m.)

2 THE COURT: All right. Bring the jury back in
3 then. Thank you.

4 (Brief pause.)

5 THE COURT: Please be seated.

6 The record will show the presence of the
7 defendant, the attorneys, and the jury.

8 And, ladies and gentlemen, we're going to go
9 to the questions. I'm going to start out by giving a general
10 answer I've provided before and that is that there may be
11 other witnesses presented in this trial that would be better
12 able to answer some of these questions, so if you don't have
13 a question answered, please remember that.

14 Okay. So -- and I'll note that Detective
15 Kennedy is back on the witness stand and is still under oath
16 of course. So I will ask the questions, Detective, and then
17 the lawyers may wish to follow up.

18

19 E X A M I N A T I O N

20 BY THE COURT:

21 Q. If you know is the golf headcover for an iron club
22 or a metal wood club?

23 A. I don't play golf. I have no idea.

24 Q. What is the accuracy of your GPS device in inches?

25 A. I'd have to use a calculator to figure that out.

1 Do you want me to?

2 THE COURT: Any objection, counsel?

3 MR. SEARS: No, your Honor.

4 THE COURT: She indicates she can figure that
5 out with her calculator. And do you have a calculator?

6 THE WITNESS: On my phone, yes.

7 MR. BUTNER: Okay.

8 THE WITNESS: I can tell you it's accurate
9 within 15 feet, so 15 times 12.

10 THE COURT: Thank you.

11 BY THE COURT:

12 Q. We'll go on to the next question then. Does -- I'm
13 referring to an exhibit. Does every yellow cross represent a
14 separate footprint?

15 A. Yes, each yellow cross was a waypoint where there
16 was a footprint, shoe print.

17 Q. Were you the first person to discover the end of
18 the bike track on the Deep Well property, or were you -- or
19 were you directed to that area by one of the deputies from
20 the night before July 2?

21 A. I was not the first person to discover the bicycle
22 track. Another deputy responding to that area found that.

23 Q. Did you see the track one footprints ZZZ standing
24 side by side left foot next to right foot as if the person
25 stopped to rest?

1 A. I don't recall seeing that.

2 THE COURT: And the last question is, can we
3 see Exhibit 2520 in our hands and you may and the bailiff
4 will now hand the exhibit for you to look at.

5 (Brief pause.)

6 THE COURT: Mr. Butner, do you have follow-up
7 questions?

8 MR. BUTNER: I do not, Judge. Thank you.

9 THE COURT: Mr. Sears?

10 MR. SEARS: No, your Honor.

11 THE COURT: Okay. Then may Detective Kennedy
12 be excused as a witness?

13 MR. BUTNER: She may.

14 MR. SEARS: Yes, your Honor.

15 THE COURT: Okay. Then, Detective, you are
16 excused as a witness. Recall the rule of exclusion has been
17 invoked, and I did discuss that in detail with you
18 previously.

19 THE WITNESS: Yes.

20 THE COURT: Okay. Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: You may step down.

23 Ladies and gentlemen, I have discussed
24 scheduling with the parties, and I am going to go ahead and
25 take the evening recess at this time. Please remember the

1 admonition and please reassemble at 9:00. I do want to start
2 right at 9:00, very close to that. So take care.

3 And I'll ask the parties to remain, and I'll
4 stand while you exit. Thank you.

5 (Brief pause.)

6 ---oOo---

7 (Proceedings were held in the absence of the
8 jury.)

9 ---oOo---

10 (Whereupon the proceedings concluded.)

11 ---oOo---

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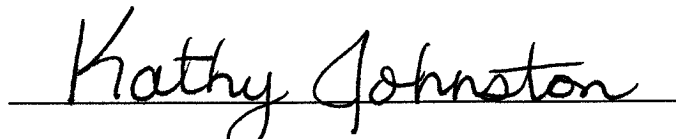
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REPORTER'S CERTIFICATE

The above and foregoing is a true and complete transcription of my stenotype notes taken in my capacity as Acting Official Certified Reporter of Yavapai County Superior Court, Kathy Johnston, Certified Reporter No. 50164, Division Six, at the time and place as set forth.

Dated at Prescott, Arizona, this 9th day of August, 2009.



KATHY JOHNSTON
Certified Reporter No. 50164
Registered Professional Reporter

FILED ON _____